The use of agency workers during strike action

Dear Sir/Madam,

On behalf of BMA Cymru Wales, I am writing to respond to the Welsh Government consultation on the use of agency workers during strike action.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 160,000, which continues to grow every year. BMA Cymru Wales represents almost 8,000 members in Wales from every branch of the medical profession.

BMA Cymru Wales commends the stance being proposed by the Welsh Government in wanting to seek to retain the status quo in Wales should the UK Government proceed with its plans to rescind the regulations which prohibit employment businesses from providing agency workers to:

- cover the duties normally performed by an employee of an organisation who is taking part in a strike or other industrial action; or
- cover the work of an employee covering the duties of an employee taking part in a strike or other industrial action.

Our members perceive that the ability for workers to strike should be regarded as a basic employment right. We therefore agree that the UK Government’s proposals would undermine the right of public sector workers to strike and that this would be contrary to the Welsh Government’s Social Partnership approach.

6 December 2016
As is recognised in the consultation document, there are already safeguards which exist to protect certain essential services – e.g. agreements by employers, such as local authorities, regarding services which are regarded as “life and limb”. In the case of doctors, we would note that they must take account of advice from the General Medical Council (GMC), including ensuring that they comply with the GMC’s ‘Good Medical Practice’. We consider such arrangements already offer appropriate protection for the public without undermining the general right of public sector workers, including doctors, to strike.

In terms of the options the Welsh Government is considering to take this issue forward, we would support the proposed use of either of the two routes that have been outlined in the consultation document which make use of primary or secondary legislation to ensure that public service employers in Wales would not be permitted to use agency workers to cover the work of any of their staff whilst they are undertaking strike action.

We would be less supportive of the third option being considered, which would involve the use of the Agency Workers Procurement Framework. This is because, as is noted in the consultation document, this option would not cover clinical staff working within the NHS in Wales. The other two options being considered are therefore preferable from our perspective as they would be able to cover clinical staff.

We trust these observations are helpful.

Yours sincerely,

[Signature]

Dr Rodney Berman
Senior Policy Executive