Guide to safe picketing

Picketing – the basics

- A picket line is where union members in a trade dispute with their employer gather at or near their workplace. They do so to persuade other staff peacefully from going into work that day and to support the strike.

- Picketing is an established legal right, and management cannot prevent you from doing it – please reassure any colleagues who may feel intimidated by their employer.

- Be aware of the law and understand that picketing must be peaceful and lawful, including wearing some form of identification that you are picketing (e.g., an arm band). The Code of Practice on picketing recommends that there should be no more than six people on the picket. Having a rolling rota gives everyone a chance to take part while staying within the guidance – plus you can organise other events, such as meet the doctors sessions.

- Avoid being on private property, or blocking the public highway (which includes some pavements) and cooperate fully with any requests from the police to deal with any obstructions.

- Don’t physically attempt to stop a person or vehicle from entering the hospital – any person who decides to cross a picket line must be allowed to do so.

- The law does not permit our armed forces colleagues to take part in industrial action, and they can be ordered to cross picket lines and to cover striking colleagues, but their support for services during the industrial action is welcome.

- You may only picket your own place of work. If there is no picket taking place at your worksite, you may not join another one, even if it is a worksite of the same Trust (unless you also work at that worksite) – but you can take part in other BMA-wide activities on the day. If you have more than one workplace you can picket any of them or any place from which your work is administered.

- Trade union officials may be present on a picket line where union members are picketing. The Code of Practice states: ‘The law provides that it is lawful for a trade union official to picket at any place of work provided that: (i) he is accompanying members of his trade union who are picketing lawfully at or near their own place of work; and (ii) he personally represents those members.’

- Try to communicate with everyone who approaches the picket with the distribution of leaflets or holding banners and placards putting forward the BMA’s case. However, if people don’t want to engage, make sure you don’t block their way.

- Medical students, other doctors or hospital staff who are not included in the dispute should not join or form any part of an official picket line. But they can visit the picket, when not on duty, to provide logistical support (like bringing food), and show their support by writing to their MP or using social media.

- While we are grateful for the support of other organisations, picket lines should be reserved for junior doctors. If another organisation, including another union, joins a picket with their own posters, banners or placards, they should be asked politely to remove them.
How to talk to patients

Patients and other members of the public may approach the picket to speak to you about the day of action — engage with them politely and constructively and try to answer any questions they have. Always be courteous, even if they disagree with you or if they refuse to take materials, like the public information leaflets.

Information leaflets for the public are available from BMA regional offices, on the BMA website and can also be ordered from materials@bma.org.uk

Key points that may be useful:
– We are fed up of hearing Government ministers undervalue our work and undermine patients’ trust in us. Many doctors are already at breaking point, looking to work overseas or even leaving the medical profession altogether.
– We are concerned that the Government’s plans will harm the next generation of doctors – and the future of the NHS itself.
– The Government has said it will impose the contract on us, and has not given us the concrete assurances we have consistently been asking for in order to re-enter fair negotiations.
– This is the first time in 40 years that junior doctors have staged a walkout. It’s a last resort – but we genuinely feel we have no choice.

Picketing – the detail

What is the BMA’s plan for picketing?
We are planning to picket the major hospitals in England on the day of action from 8am to 12:30pm. This includes most major DGHs and any other hospital site that has over 100 junior doctors working there. This means there will be official pickets at over 150 worksites.

Contact details for BMA representatives will be available where BMA staff cannot be on site to provide assistance.

What is the law around picketing?
Management cannot prevent peaceful picketing. It is an established legitimate and lawful right.

The statutory immunity for picketing is contained in the Trade Union and Labour Relations (Consolidation) Act 1992, which states: ‘It is lawful for a person in contemplation or furtherance of a trade dispute to attend at or near his own place of work... for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person not to work or to abstain from working.’

Provided that all picketers attend at or near their place of work with such purposes in mind (ie peaceful communication and persuasion) their attendance will be lawful. However, the immunities under employment legislation only protect those engaged in lawful picketing from being sued for breach of contract and therefore individuals are not protected against activities such as trespass or any other potential criminal acts. The aspects of criminal law that could apply are obstruction of the highway or breach of the peace charges.

There are four main criminal offences that may be committed by people involved in picketing: use of violence; persistent following; hiding tools; and picketing a person’s home. Furthermore, it is unlawful for the union to pay an individual’s fines for criminal activity or contempt of court.

The Code of Practice on picketing states that organisers should ensure that, in general, the numbers at each official picket should not exceed six people at any entrance to or exit from a workplace. While the Code of Practice is not legally binding it is admissible in evidence in a court and is regularly relied upon for guidance by judges dealing with legal disputes regarding picketing.

The police may visit your picket line. Always be polite and helpful if they attend – reassure them that you intend peaceful picketing only, and cooperate with any requests to keep the area free from obstruction.

Give your colleagues advance warning that management may put pressure on them not to strike or picket. Reassure your colleagues if they have any concerns about striking, and remind them that they have the legal right to strike and picket and need not be intimidated.

If you experience any difficulty on the picket line, including with other organisations, contact BMA First Point of Contact team on 0300 123 1233.

The BMA is the independent trade union and professional association for all doctors working in the UK.

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