

Public health registrars and the junior doctors ballot on industrial action in England

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In balloting junior doctors in England for industrial action, the BMA is legally obligated to ensure that only junior doctors who are eligible to take part in any industrial action are balloted. At the same time, we want to make sure that everybody who is eligible can take part.

The contractual position of public health registrars is complex, and we have sought considerable legal advice in relation to who to include in the ballot.

Complexities around public health trainees

Public health trainees in England are employed by lead employers who are NHS trusts but much of their training is undertaken as part of placements within host organisations outside the NHS.

The current trade dispute is between the BMA and the Secretary of State for Health and Social Care who sets pay terms and this is implemented by NHS Trusts, therefore NHS trusts are party to the dispute.

For the purposes of public health trainees, a host organisation is any organisation where you work but who do not pay you directly, such as a local authority, university, NGO and NHS England. For public health trainees, these host organisations are not an NHS employer and so are not party to the dispute.

Public health trainees on placements may have documentation which indicates an obligation to provide labour for that organisation. Examples include but are not limited to honorary contracts, roles and responsibilities documents, line management arrangements, arrangements regulating hours of work or performance of a work schedule, and requests for annual leave.

It is important to note that none of these documents necessarily need to be signed or countersigned for them to represent an obligation to provide labour.

Taking part in industrial action when you have an obligation to provide labour to a host organisation (who is not party to the trade dispute) is known as secondary action and could have an impact on the validity of the entire ballot.

Deciding who to ballot

If all public health trainees were included in the ballot and took part in industrial action, this would risk giving rise to secondary action. The BMA would therefore have run the risk of inducing public health trainees to act in breach of their obligation to provide labour to a host organisation that is not party to the dispute.

In addition, as the BMA is not in dispute with these host organisations, it would also not have complied with the ballot notification requirements laid down in law.

All this would lay the ballot open to challenge.



Recording the information on the BMA Membership System

To protect the integrity of the ballot and to allow for eligible PH trainees to take part, we asked all public health trainees to confirm their membership profile to reflect their eligibility.

All public health trainees in England have been moved to “Public Health trainees with an honorary contract” as the default position.

If you are certain that you do not have any obligations of labour in any form (work plan, timetable, roles and responsibilities document etc..) then you may change your profile to “Public Health trainees without an honorary contract” on your online member portal.

Please note you will need to select “Public health medicine” under Branch of Practice option for this to become available.

We would also advise that any public health trainee who has recorded themselves as a junior doctor on the membership system with the speciality of public health, moves to one of these two new membership grades.

Honorary contracts for health protection work (UKHSA)

For the avoidance of doubt, the separate contracts with UKHSA for on-call and out of hours work do not count in these circumstances.

If a trainee does such work they can still be balloted, however, they must not take any action on a day when they were due to undertake work for UKHSA (e.g. daytime on-call).

Below we detail who will and will not be balloted and the reasons why:

Public Health trainees with an honorary contract with a non-NHS Employer

This group will not be balloted and cannot take part in any action under their contract with the public health body. To avoid anyone being involved in the ballot who should not be, all public health registrars were moved to this membership grade and then asked to amend their grade as required.

Public health trainees with no honorary contract with a non-NHS Employer

This group will be balloted and can take part in industrial action, as we are balloting for full industrial action rather than action short of industrial action. You will need to have been recorded as a “Public Health trainees without an honorary contract” in order to receive a ballot. You can check and amend this up to 12 February through [our website](#) or by contacting doctorspay@bma.org.uk.

If you are unclear whether you have an agreement of a contractual nature with the host organisation and require further advice on this, please contact the BMA.

Academic public health trainees

Please see the separate advice for academic trainees.

What to do if you receive a ballot and don't think you are eligible

If you have received a ballot in error please review the following FAQ:

[Strike advice and FAQs for junior doctors \(bma.org.uk\)](#)

Specifically:



Receiving a ballot in error

The BMA is balloting junior doctors in England from 9 January 2023 for strike action. Should you be ineligible to vote and have received a ballot in error you we ask that you contact the BMA by calling 0300 123 1233 or email doctorspay@bma.org.uk – please do not return your ballot in the envelope provided.

This is so your ballot can be voided and not counted against the overall threshold.

Further advice

Further advice will be provided on what trainees who are not being balloted can do on the days of action to support the action and on whether they can refuse to be redeployed.

If you are not being balloted as a result of these decisions and you feel you are eligible, please contact our member relations team at support@bma.org.uk.

This advice only applies to public health trainees in England. Separate legal advice will be sought regarding public health trainees in the devolved nations in the event of ballot of junior doctors being called in Scotland, Wales or Northern Ireland.

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