

To: Managers of GP practices, hospices and other placement providers, NHS Trust contacts, GPVTS North and South London

From: Lead employer services, Royal Free London NHS Foundation Trust

Date: 03/03/2023

Dear colleague

JUNIOR DOCTORS' INDUSTRIAL ACTION

As you may be aware, junior doctors have voted to take industrial action with a 72-hour full walkout starting at 7:00 am on Monday 13th March. As the lead employer for GP Trainees in North and South London, the Royal Free London NHS Foundation Trust has published the attached summary of frequently asked questions (FAQs) to provide support to managers relating to the industrial action.

We estimate 7 in 10 junior doctors will take part in the industrial action, although it may of course be higher. As an employer, we fully support the right of our employees to take part in any strike action, while acknowledging the impact that this may have on the delivery of patient care.

To prepare for the forthcoming action, we advise

- Plan in advance on the assumption that trainees will not be at work
- Consider reducing patient appointments on these dates and/or cancelling any activity normally carried out by GP trainees.
- Where trainees are concerned about the loss of any training time, refer to HEE guidance accessible via this link: <https://medical.hee.nhs.uk/medical-training-recruitment/medical-specialty-training/industrial-action-and-management-of-doctors-in-postgraduate-training>
- Where trainees are unsure as to what to do, direct them to the BMA website, which has lots of useful information for trainees considering taking strike action

As an employer, we are required to track and report on absence due to strike action in a timely fashion. To help us with this, accurate and rapid reporting of absences, with full details of the missed shift timings, must be sent to rf.leademployerservice@nhs.net on each day of the action (and if necessary to capture night shifts, on the following days). Please use the attached '**Industrial action absence reporting sheet**' for this purpose.

Many thanks for your support and understanding at this difficult time. Should you have any further questions, or need any further guidance, please contact to rf.leademployerservice@nhs.net and one of our team will respond to you as soon as possible.

Kind regards

Gareth Jones
Director of employment services

FREQUENTLY ASKED QUESTIONS – INDUSTRIAL ACTION

The FAQs are arranged in the following sections:

- *Industrial action – what is it?*
- *How can we support our staff who vote to strike?*
- *What happens on strike day and staff related questions/processes?*

FAQs

1. Industrial action – what is it?

What is industrial action?

Industrial action happens when trade union members are in a dispute with their employers that can't be solved through negotiations.

Industrial action is when workers:

- go on strike and withhold their labour
- take other action, like refusing to do overtime (known as 'action short of a strike') or work to rule

Can GP Trainees take part?

Yes, they can take industrial action if they have an NHS employer.

This includes:

- if they have a single lead employer contract
- they hold a contract directly with a GP practice
- or if they have both.

2. How can we support our staff who vote to strike?

What is the Lead Employer response to the potential strike/s?

We respect the right of staff to take industrial action (including strike action). Senior management have been meeting with local and regional union representatives in relation to potential strike action and are very keen to maintain positive partnership working throughout this period.

We understand that these are unsettling times and would of course also encourage staff to talk to their representatives too.

What should managers do in advance of the industrial action?

Managers are encouraged to take a supportive approach throughout the period of industrial action, which is likely to feel unsettling for staff, and allow staff to air their views and talk to them about any concerns they may have.

Can we ask staff if they are planning to strike?

Yes - we can ask staff if they're planning to strike to help with planning and reviewing the impact on our services. These plans will support our staff's right to participate in action while ensuring patient safety. Please note, staff do not however have to tell us their plans and have the right to change their minds without notice.

Can staff on maternity leave or long-term sick leave take part in industrial action?

Staff can only take part if they are on duty on strike day but may be able to support the strike action in other ways if they wish to do so. Staff should discuss this with their local trade union representatives.

Can staff on days off or annual leave take part in industrial action?

Staff can only take part if they are on duty on strike day but may be able to support the strike action in other ways if they wish to do so. Staff should discuss this with their local trade union representatives.

Can staff working on the night shift strike if it falls outside of the hours of industrial action?

Staff can only take part in the strike if they are on duty at the time of the industrial action but may be able to support the strike action in other ways if they wish to do so. For example, staff may wish to come in early or stay later to show their support to the picket line. There are many ways that staff can participate if not rostered on the day itself and staff should discuss alternative ways to support industrial action with their local trade union representatives.

3. What happens on strike day and staff related questions/processes?

On the day, what is the reporting process?

If staff take industrial strike action, it needs to be recorded on the '**Industrial action absence reporting sheet**' (attached) on the day the industrial action is taking place and returned to rf.leademployerservice@nhs.net

What if a staff member is sick or unable to attend work on the day of industrial action?

The employee should contact their line manager in their placement on the day of industrial action if they are due to be working but are unwell or unable to attend for any other reason not related to industrial action.

On their return-to-work staff will be required to complete a return-to-work meeting with their line manager in line with our sickness absence policy. In these circumstances, staff must also **provide a fit note** (if the absence was due to sickness).

Anyone who is expected to be working but does not attend on these days of action and does not contact their line manager (or named alternative) or who reports as sick but fails to provide a fit note should be marked as participating in action (ie striking).

Do staff participating in industrial action need to phone in on the day?

Staff who are rostered to work and have chosen to participate in the industrial action do not need to call in on the day confirming their participation if they usually work on site. Staff who are due on site and do not call to confirm the reason for their absence will be assumed as participating in action and marked on the roster accordingly. Staff who work remotely **will** need to contact their manager to confirm if they are participating in action.

Does the trust pay staff who are striking?

No – if staff members are on strike, then they will not be paid for the day they are striking. However, their union (if they have one) may make a payment to staff who strike on the day.

Pay will be deducted from the salary of those marked as participating in the action, in effect, 'reducing' the working hours for the month. The reductions of hours for the month will impact on the pension contributions and occupational pay benefits.

If a staff member is not scheduled to work on a particular day of action, they personally would not need to take industrial action. Their wages cannot be deducted on this day either.

Does strike action constitute a breach of contract?

Staff have the right to take industrial action, but as you are not working on a strike day, this is legally considered a 'breach of contract' as you are not fulfilling the job role set out in your contract. This is the reason that staff who go on strike are not paid for any time spent on strike and absence is recorded as unauthorised. Provided that the strike action is part of official industrial action that has been called lawfully, then staff will be protected in their right to strike (ie the "breach" will be considered lawful).

Can staff book annual leave on the day/s of strike action?

The answer to this question will depend on the placement provider (practice/hospice/trust etc) that the member of staff works at. If you can accommodate the leave, then please approve through the normal process in line with the Annual Leave Policy.

We would ask that if staff have not pre-booked annual leave on days where strike action is taking place that they only request such leave in exceptional circumstances. If approving the leave would cause staffing issues due to the strike action taking place, then leave can be refused.

If a staff member was on planned annual leave during the period of any industrial action, will this remain as annual leave and be paid under normal arrangements?

Yes, as long as the employee does nothing which is consistent with associating with the strike or taking part.

If there is evidence that the staff member took part in the strike, the line manager and staff member would need to meet, discuss, and agree a way forward. This may lead to a deduction in pay for the day of the strike