

The Single Lead Employer for Doctors & Dentists in Training



INDUSTRIAL ACTION

FREQUENTLY ASKED
QUESTIONS FOR NIMDTA
SLE EMPLOYEES

Northern Ireland



Medical & Dental Training Agency

1. What is Industrial Action?

It is recognised that members of staff have a right to take industrial action without it being held against them in any way. An employee will not be regarded or treated less favourably in respect of employment rights, working conditions or career opportunities, on account of any industrial action they took or did not take.

Industrial action can take many forms, the extent and impact of which will often depend on the causes and issues at stake in any particular trade dispute.

1.1 Why is Industrial Action being taken?

The BMA and BDA have balloted their junior doctor / dentist members for industrial action in furtherance of a dispute on pay. This pay dispute remains unresolved and has now escalated to strike action.

As your employer we respect that this Industrial Action constitutes lawful action and we will ensure support is in place for all staff, regardless of whether they are in a Trade Union or not and whether they participate in Industrial Action or not.

2. When will Industrial Action take place?

The BMA and BDA have provided HSCNI with more than the legal minimum period of notice for industrial action.

It is confirmed that Industrial Action involving Junior Doctors and Dentists will take place over a 24- hour period commencing at 07:59 hours on Wednesday 6th March 2024 and ending at 07:59 hours on Thursday 7th March 2024.

Industrial action will take the form of strike action for shifts starting between those times.

For clarity, if the start time of your shift begins before 07:59 am on Wednesday 6th March 2024 the BMA and BDA have confirmed that you should commence, and complete your full shift as normal - [On the day of strike action \(full walkout\) \(bma.org.uk\)](https://www.bma.org.uk)

This is in keeping with GMC's Good Medical Practice [Good medical practice - professional standards - GMC \(gmc-uk.org\)](#).

Further to this, you may find the GMC's Q&As on Industrial Action helpful - [Industrial action - GMC \(gmc-uk.org\)](#)

Equally, if you are due to commence your shift at 07:30 am on Thursday 7th March 2024 this will fall within the strike period and you may strike for that full shift.

BMA has confirmed that members who are due to begin a shift after 07:59 am on Thursday 7th March 2024 will resume work as normal.

3. Who is eligible to participate in Industrial Action on 6th March 2024?

All eligible junior doctors and dentists who hold a junior doctor / dentist contract with NIMDTA Single Lead Employer, or if employed directly by a HSC organisation, can take part in industrial action.

Further information can be accessed via the BMA's website:

[Taking industrial action - Junior doctors' guide to industrial action in Northern Ireland 2024 - BMA.](#)

4. I am a BMA / BDA member – does that mean that I have to participate in industrial action?

Whether you voted yes or no in the ballot, or not at all, it is entirely your choice whether you wish to participate in industrial action or not.

If you choose not to strike you will be expected to work your normal hours that day unless you have been granted leave in advance by your manager¹. If you simply fail to attend for work it will be assumed that you are on strike and you will not be paid.

5. I am not a member of BMA or BDA – can I take part in industrial action?

Yes, both union members and those who are not members of a union may participate in strike action.

Protection is available to those who are taking part in official strike action. Members of a union (in this case BMA and BDA) which has balloted and called out its members (in this case junior doctors/dentists) will be taking part in official protected action.

Additionally, junior doctors and dentists within an NHS / HSC organisation, who are not members of a union will be protected against dismissal for taking part in industrial action.

6. If I strike, will this go on my record and reflect poorly on my reputation?

Your Host Organisation and NIMDTA recognise that Junior Doctors and Dentists may wish to express their concerns through official strike action which has been organised within legal requirements by the BMA & BDA.

From an employment perspective you will not be treated any less favourably if you decide to participate in the strike.

From a training perspective industrial action will count as *Time out of Training (TOOT)*, that is, time when a doctor is not in work, due to illness, compassionate leave or lawful industrial action.

Every doctor in training has an annual allowance of 'time out of training'. This is 20 days per year in the Foundation Programme, and 14 days per year in speciality and General Practice training programmes.

If a doctor exceeds their TOOT allowance, then this may lead to a review of overall performance and achievement of curricular outcomes but does not mean an automatic extension to training. This review does not require an Annual Review of Competency Progression (ARCP). Provided that outcomes are being met, there would be no justification to extend training as a result of taking industrial action.

Further information regarding TOOT can be accessed via the following links

[Time out of training \(TOOT\) \(bma.org.uk\)](https://www.bma.org.uk/time-out-of-training)

[Gold-Guide-9th-Edition-August-2022.pdf \(copmed.org.uk\)](#) (paragraph 3.183)

7. Will I be paid if I participate in the strike?

If you are rostered to work a shift that commences between 07:59 am on Wednesday 6th March and 07:59 am on Thursday 7th March 2024, but choose to take part in strike action instead of reporting for work you will not be paid for the hours that you have been on strike.

Managers¹ are asked to maintain a record of staff who participate in the strike action, and to provide this information to NIMDTA Single Lead Employer for necessary salary deductions.

8. How will the salary deduction be calculated?

Deductions will be made based on the number of hours that you are on strike. Your hourly rate comprises full pay, that is both basic salary and banding / GP allowance.

9. When will the deductions be taken from my salary?

The pay for the hours you were taking strike action will be deducted from your salary in the next pay period after it is entered onto an Industrial Action Spread Sheet, which will be submitted to the Payroll Shared Services Centre by your employer (NIMDTA SLE).

For most staff participating in strike action deductions are likely to be taken from March's salary.

However, taking Host Organisation returns and payroll deadlines into consideration, it is possible that some doctors and dentists will not have deductions taken until the following pay period in April.

10. What planning is taking place to provide services where junior doctors and dentists choose to strike?

The Host Organisation in which you are placed (for example, the HSC Trust), NIMDTA, the BMA and BDA are committed to ensuring safe delivery of patient services during strike action. Your Host Organisations' managers¹ are formulating contingency plans to ensure a safe level of cover, which may involve the standing down of services as necessary.

Clinical and operational managers are actively reviewing planned elective activity for the duration of the industrial action, including for the period of time leading up to the industrial action, and after. Host organisations are reviewing all services, and dependent on the rota templates and predicted staff availability, activity will be stood down.

11. Can my manager¹ ask me if I plan to take part in industrial action?

In order to help with the planning of cover for essential services it is possible that your line manager¹ may ask if you plan to participate in strike action. If asking this question, managers¹ are encouraged to do so respectfully and sensitively. However, please note that you are under no obligation to answer this question, and you are subsequently entitled to change your mind.

We would encourage you to make clear to your line manager¹ in advance whether or not you are going to strike, however we understand that planning is being undertaken on the assumption that all Junior Doctors / Dentists regardless of union membership, will be participating in strike action.

12. I am on planned annual leave during the period of the industrial action, will this remain as annual leave and be paid under normal arrangements?

Pre-booked annual leave should remain, even if it coincides with industrial action. Your pay will not be affected.

13. Can I request annual leave / TOIL after the strike action is announced?

Once strike action is declared, annual leave, TOIL etc will not normally be approved by your manager¹ for the day(s) of action (unless pre-agreed, or if the circumstances are deemed to be exceptional).

14. I am due to be on a study day/ at a work-related conference on the date of the strike. Can I still attend?

Cancelling study leave may incur expenses. You should discuss this with your Educational Supervisor and line manager¹.

Further information is available from the BMA's website: [Strike advice for junior doctors \(bma.org.uk\)](https://www.bma.org.uk/strike-advice-for-junior-doctors)

15. What if I am sick and therefore unable to report for work on the day of strike action?

If you are on sick leave this will be managed in accordance with the normal arrangements outlined in NIMDTA's Attendance Management Policy. All sickness absence should be recorded as normal.

NIMDTA's Attendance Management Policy can be obtained from NIMDTA's Single Lead Employer Trainee Employment team (SLE-Absence@hscni.net)

16. I am a member of the HSC Pension Scheme – will pension contributions be collected when I am on strike?

If you contribute to the HSC Pensions Scheme, no pension contributions will be collected on days when you are on strike and these days cannot reckon as pensionable membership for benefit purposes. The number of days lost will be recorded as disallowed days.

17. Is my continuous employment with the HSC / NHS affected if I participate in industrial action?

Taking industrial action will not break your continuous employment. However, the days you took industrial action on will not usually count towards your total length of service with your employer. This means that your periods of employment both before and after you took industrial action will count towards your total length of service.

Further information is available from the NI Direct website:

<https://www.nidirect.gov.uk/articles/industrial-action>

18. Can going on strike affect my entitlement to Maternity Pay?

OMP

Although a strike breaks the contract of employment, it does not break continuity of employment if you return to work after the strike ends. Therefore, eligibility for OMP may not be affected.

SMP

A strike will, however, delay the attainment of any necessary qualifying period as the employee's starting date is regarded as being postponed by the actual number of days between the last working day before the strike and the day on which work resumes.

Therefore, participating in strike action could affect how we calculate this 26-week period. If you strike on any day in a week, your employer may discount that whole week in which you took action from their calculation of the period of continuous employment needed for SMP (26 weeks).

This means that, in some circumstances, taking strike action could result in you not accruing enough continuous service to qualify for SMP. For example:

- if you had only just worked 26 weeks with your employer by week 15 before your due date but took strike action on one of those weeks (thus bringing you down to only 25 weeks continuous service)
- or, if you had worked 27 weeks with your employer by week 15 but had taken strike action on two of those weeks (again, bringing you down to only 25 weeks continuous service).

Maternity Allowance

Going on strike will not affect your eligibility for Maternity Allowance (MA).

If you do not qualify for OMP or SMP you may be entitled to Maternity Allowance, which can be applied for via Gov.uk.

For further information please visit the BMA's website:

<https://www.bma.org.uk/our-campaigns/junior-doctor-campaigns/pay/junior-doctors-guide-to-industrial-action-in-northern-ireland-2024/striking-and-maternity-pay-northern-ireland>

19. Can I work on rest days immediately following Industrial Action?

If you strike and are recorded as not attending work, you may not require the rest safeguards and it may be possible for you to take on additional activity without breaching rest requirements. This is because time spent on strike is not “working time” for the purposes of the Working Time Regulations.

Some doctors and dentists may wish to take on extra working hours on their non-working days following their strike days in order to make up for deducted pay. This would be additional work outside of contracted hours and would have to be agreed by the Host Organisation. If you and your Host Organisation mutually agree to swap,

the hours of work will not be recorded as strike action and would follow your standard process for swapping shifts.

20. I am acting up to the role of consultant. Can I participate in Industrial Action?

Junior doctors acting up to consultants, who hold an underlying junior doctor contract of employment with NIMDTA Single Lead Employer can take part in industrial action.

21. I hold a visa. How will this be affected if I participate in strike action?

The guidance for sponsors makes clear that sponsors (employers) are under a duty to report to UKVI where a sponsored worker is absent from work for more than 10 consecutive working days without permission. This report must be made within 10 working days of the tenth day of absence. However, at this point, it seems unlikely that industrial action will be called for 10 consecutive working days or that if it were to be, a sponsored worker's rostered hours would coincide with a period of industrial action for 10 consecutive days.

If your salary is reduced for any period of time, your sponsor is required to notify the Home Office, confirming the reason for the reduction of salary and the dates that the reduction is effective from and to. Although your sponsor is required to report a reduction in salary to the Home Office, if the cause of this salary reduction is legally organised industrial action, the sponsor cannot end their sponsorship of your visa.

22. I am not participating in strike action but what will happen if I am faced with a picket line, or official demonstration?

Colleagues who are on strike may form a picket line, or official demonstration outside their place of work, and if they do you may have to pass them to go into work. You will not be prevented from entering the workplace if you wish to.

23. I am planning to join the picket line / official demonstration – what do I need to know?

Peaceful picketing is recognised to be a lawful activity. However, the law imposes certain limits on how, where, and for what purpose such picketing can be undertaken.

The only purposes of lawful picketing are to peacefully obtain or communicate

information; and/or persuade a person to work or not to work. This may be done by speaking to people, the distribution of leaflets, carrying of placards and banners putting the picket's case. In all cases such activities by pickets and those crossing the picket lines must be carried out peacefully with mutual regard for Health and Safety matters. A person who wants to cross a picket line and report to work must be allowed to do so.

Your Host Organisation and NIMDTA expect appropriate behaviours on any picket lines, or official demonstrations, outside HSC properties and reserves the right to take appropriate action in relation to inappropriate and unacceptable behaviour.

24. What should I do if I am asked by the media to comment on the strike?

The majority of staff will not be routinely asked to handle media enquiries. If you decide to comment in a private capacity you must make this absolutely clear to the journalist. If you are commenting to the media on behalf of another organisation, such as the BMA or BDA, you should also make this clear.

All external media / press enquiries should be handled by:

- The HSC Trusts' Corporate Communications teams (on behalf of your Host Organisation)
- The Department of Health's Press Office (on behalf of NIMDTA)

APPENDIX 1

Clarification re the Definition of a Line Manager¹

It is acknowledged that whilst you are an employee of NIMDTA (Single Lead Employer) day-to-day operational management is devolved to your Host Organisation, that is the HSC Trust or other organisation in which you are placed.

Management structures may differ across each host organisation, for example, in some cases line management may be via a consultant clinical supervisor, or perhaps via a Clinical Director.

For effective communication and clarity regarding the identity of your line manager please ensure that you are aware of local management arrangements within your Host Organisation. If you are unclear of this, your rota co-ordinator may be able to assist.