



Cymru Wales



Llywodraeth Cymru
Welsh Government

To:
Health Board and Trust

- Chief Executives
- COOs
- Medical Directors
- Directors of Nursing
- Directors of Workforce
- EPRR Leads

28th March 2024

Dear Colleagues,

Planning for Consultants and SAS (Senior) doctor industrial action

Following confirmation of the outcome of ballots conducted by the BMA Cymru for Consultants and SAS Doctors respectively on 4th March 2024, you will be aware that both ballots returned a majority in favour of Strike Action.

The BMA has confirmed that the first action will be held from 7am on Tuesday 16th April 2024 to 7am on Thursday 18th April 2024. On this occasion the action will be joint across the two branches of practice and the BMA is calling on all Consultants and SAS Doctors, except for those providing “Christmas Day Cover” to withdraw their labour. The BMA, NHS Wales Employers and Welsh Government have worked to agree a framework definition of what is included in “Christmas Day” cover to assist employing organisation to properly plan services and staffing for this initial period. A copy of this Definition is attached at Appendix A.

It is recognised that some services/service models may differ across organisations and as such, Employers are encouraged to liaise directly with their Local Negotiating Committees to plan the local application of this definition. Any differences in interpretation that cannot be resolved locally should be escalated through to [NHS Wales Employers](#).

It is important to note that whilst this period of action involves both Consultants and SAS Doctors, it is for the BMA to determine the nature of future strike action across the three branches of practice, i.e. Consultants, SAS Doctors, Junior Doctors.

Welsh Government, NHS Wales Employers, and the BMA all wish to ensure that patients remain safe while senior doctors are taking lawful industrial action. This statement sets out our joint staff recall position in the event of industrial action.

System Resilience Planning and Preparedness

In addition to the normal capacity and demand planning undertaken, Health Boards and Trusts have been asked to ensure that the impact of “Christmas Day” cover only for the period of industrial action is factored into this planning. Decisions regarding a reduction in the level of elective and non-emergency treatment, non-clinical events or activities, leave approval etc. should be included.

Health Boards and Trusts are expected to ensure that adequate staffing levels are maintained during any industrial action by engaging appropriate levels of staff to cover rotas where needed.

With adequate scenario planning, health boards and trusts should ensure that they are able to provide safe staffing levels in the determination of activity etc.

Derogation requests *ahead* of Senior Doctor Industrial action

Derogation in the event of a reduced service is designed to be responsive to patient safety concerns arising **during** strike action rather than pre-empting impacts of strike action.

Whilst Welsh Government, NHS Wales Employers and the BMA acknowledge that this has already been a challenging year in light of Junior Doctor Industrial Action, the BMA has stated that no prospective requests for derogation (call back of senior doctors) will be considered or approved before the start of the industrial action.

Derogation requests during Senior Doctor Industrial Action

The BMA position is clear regarding the need to continue to provide services equivalent to those provided on Christmas Day 2023. To this end, they have effectively “derogated” Senior doctors to cover “life and limb” services. However, for exceptional circumstances, Welsh Government, BMA and NHS Wales Employers have agreed a mechanism to consider and approve such requests as set out in the guidance available on the [NHS Wales Employers](#) website.

Documentation and templates to support this process are also available following this [link](#).

Failure to adequately plan for service demand will not be reason alone for a derogation to be granted.

Where a local derogation is identified as necessary once the industrial action has commenced, the BMA and NHS Wales Employers have agreed the medical director or nominated executive director of the relevant trust, or trusts should contact NHS Wales Employers. They will pass details of the situation to the BMA who will then need to agree that the incident can only be mitigated by requesting doctors to return to work and that a derogation is appropriate.

Once the BMA has approved a derogation, the health board/trust may contact doctors and seek their return to work. The BMA will also communicate the approval through its local structure and will post to its X (Twitter) account that the derogation has been agreed so that it is easy for members to verify it.

Doctors on strike need not return to work unless the need for derogations is confirmed by the BMA, the exception to this is in response to major incident (as set out below).

Staff recall for declared major incidents with mass casualties.

All parties acknowledge that, despite the comprehensive contingency plans being put in place, major incidents, or an unforeseen or extreme event is likely to require a request for staff to return to work for a limited period in order to maintain safe patient care.

Welsh Government, NHS Wales Employers and the BMA recognise it may be necessary, in exceptional circumstances such as a declared major incident, for a health board/trust to contact doctors directly in the event of a declared major incident with mass casualties explaining the situation and seeking their return to work.

The health board/trust should then follow standard procedures to escalate the incident, in line with the escalation framework and via the appropriate on-call route and NHS Wales Employers will escalate to the BMA. The health board/trust will be required to complete and submit a derogation

form (in retrospect) to verify the need for the recall. This process does not apply to incidents that arise due to the industrial action itself.

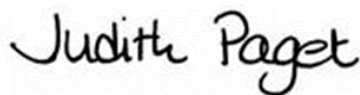
Furthermore, we have agreed a failsafe bypass mechanism whereby a health board/trust may ask senior doctors to return to work in parallel with central escalation from NHS Wales Employers to the BMA. The failsafe also extends to the doctors themselves to use their discretion if they hear of a major incident occurring that they feel they need to help with. Any use of this failsafe bypass should be exceptional, will be audited, and will be subject to review of arrangements in any future industrial action.

The formal escalation process for derogation in a major incident is set out in in the published [guidance](#).

Yours sincerely,



Dr Phil White
BMA Welsh Council Deputy Chair



Judith Paget CBE
Director General Health & Social Services/NHS Wales
Chief Executive



Mrs Sue Green
NHS Wales Employers