



Unite guidance on cover in the NHS during Industrial Action

Unite members, professional and skilled staff working in the NHS, always believe that the NHS should run services which guarantee patient safety. Our members understand their professional obligations in this regard, and will not seek to undermine this.

At the same time, Unite members have a right to take industrial action. Members have a right to defend themselves against employers weakening their terms and conditions of employment, an act in itself which can have an impact on morale, staffing levels and patient safety over the long term. The current dispute on the cuts to the NHS Pension, would be an example of this.

The NHS varies the level of cover it provides to patients according to the time of day (i.e. night and day), the day of the week (i.e. weekday and weekend) and makes exceptions for certain days of the year (i.e. Christmas day and other public holidays).

NHS employers are wanting to discuss cover with trade union representatives, should employees vote to take industrial action at any point in time. It is therefore important that our representatives understand what is considered a safe service.

The National Industrial Sector Committee for the Health Sector in Unite has discussed this issue at length and believe that cover which will provide for the safety of patients should follow the principle of

“Public Holiday cover determined by professional and skilled staff”

Public Holiday cover

What does this mean?

The NHS employers determine a safe level of cover on public or bank holidays, like Christmas day, which enable the minimum level of employees to be at work, and still for NHS services to function and meet the essential needs of patients.

Some services are not required over bank holidays, for example Speech and Language Therapy Services, some diagnostic services, some support services like ward clerks or medical secretaries. If services are not needed on public holidays, then these services will not be essential in the light of a day of industrial action.

Some services are required over public holidays, but in a limited capacity. For example, those in certain diagnostic areas, like pathology, or pharmacy.

Where services are required, the level of service provision should be based on the level of cover that is normally provided over a public holiday period. However, it is important that professional colleagues working in these areas are empowered to determine if a situation is essential or not.

It should be for the professional and skilled workers in each field who are best to make such determinations, whilst understanding that the safety of patients and the public is part of their professional responsibilities.

Some services are essential to be delivered on a public holiday. Levels should not drop below the minimum safety level for that particular setting. Crisis and emergency services are essential also, but this does not necessarily mean that they all employees are needed to be in work that cover or support that service.

This is the principle that is applied to public holiday working, and we would expect this principle to be applied to days of industrial action.

Determined by professional and skilled staff

What does this mean?

The best people to determine the level of safety for each discipline are the skilled and professional workers within each discipline. Each employee understands their professional obligations to ensure that patients are safe and that appropriate cover is available when it is necessary.

We would therefore expect that the staff within a particular discipline or department to determine how the service is best provided during a period of industrial action, rather than this being imposed from the centre by an NHS employer, who probably has less understanding of the essential requirements of each discipline.

We would expect that staff who do agree to work during the period of industrial action to work out how cover is provided, and ensure that colleagues are able to take their breaks at the appropriate times.

Out of work hours

For colleagues that have to work on a day of industrial action, they are entitled to their proper breaks, which according to the Working Time Regulations, means that they are entitled to a break away from their place of work. Colleagues should be free to join the picket line, or attend a local protest during their break, providing they return to their work on time.

We will also be encouraging colleagues to join in with local demonstrations and rallies in their lunch breaks and after work, so even those that have to provide services will be able to state their protest to the attack on their terms and conditions, including pensions.

Discussions with employers

The NHS Employers have published a document “Managing industrial disputes: guidance for employers in the NHS”, visit <http://www.nhsemployers.org/Aboutus/Publications/Pages/industrial-disputes.aspx>

Much of the attention in this document is paid to the legal obligations of unions with regards to balloting for industrial action, however Chapter 2 seeks to negotiate a protocol with unions as to how industrial action will be managed. Managers are now being asked to talk to their recognised trade unions to come to an agreement over cover during periods of industrial action.

Unite believes that in stating “Public Holiday cover determined by professional and skilled staff” that our members will fulfil their professional and legal obligations to ensure patient safety, and that no further agreements are necessary.