

## **Q&A - key background information for hospital dental trainees responding to the BDA's indicative survey**

This guide has been put together to help you understand what industrial action is and why the BDA is undertaking an indicative survey to gauge your views on this area.

### **What does the term industrial action mean?**

Industrial action involves members of a trade union working together to achieve a goal by withdrawing their labour. There are two types of industrial action: strike action and action short of a strike. It is common misconception that strike action is the only form of industrial action. While a strike is a complete stoppage of work, action short of a strike usually affects some aspects of work. It is commonly referred to as “working to rule”, which is a form of action in which employees do no more than the minimum required by the rules of their contract. This can include taking all your contractual breaks and/or starting/finishing your shifts strictly on time.

To be clear, you can only participate in industrial action that has been [lawfully arranged](#) following a ballot of BDA members and a yes vote has been achieved in that ballot. Further details are provided later in these FAQs.

### **Why is the BDA surveying you on this area?**

The BMA negotiates both junior doctors' and dentists' contracts, including pay and conditions, on behalf of the BDA and with the BDA feeding in dentists' views into the process. On 1st October 2022 the BMA junior doctors committee voted to proceed to a ballot for industrial action from 9 January 2023 **in England only**. Junior doctors have also now entered a trade dispute with Government. However, what form that industrial action will take will be decided at a later date.

They had previously called upon Government to commit to restoring junior doctors and hospital trainee dentists pay to levels equivalent to 2008/09 in real terms. However, the Government did not respond to this request. They have concluded that the Government's failure to make any effort to restore real terms cuts to junior doctors' pay has left them with no choice but to enter a trade dispute with Government and NHS Employers in England.

The Central Committee for Hospital Dental Services (CCHDS) is the committee of the BDA that represents dental staff working in hospitals on dental and medical terms and conditions across the UK and this includes hospital-based dentists in training. **The Committee are undertaking this indicative survey of you as dental trainees to gauge your appetite for taking industrial action (sometimes shortened to the term IA). While the BMA negotiates on behalf of dentists and the BDA, it is the BDA that takes decisions in relation to industrial action for its own members.**

On the basis of the survey results, the CCHDS will then consider moving to a ballot on industrial action on the same broad timelines as the BMA if they feel that the results justify this action. It is the Committee who would need to make any recommendation to the BDA's Principal Executive Committee (PEC) to authorise proceeding to a ballot and take any action to match steps undertaken by the BMA.

### **What was this year's pay award for trainee doctors and dentists?**

The current pay award is covered by a multi-year deal, that delivered a 2 per cent pay increase for 2022/23. In 2018, the BMA, NHS Employers and the Department of Health and Social Care reviewed the 2016 contract that was imposed by government, agreeing amendments in July 2019. NHS trainee

doctors and dentists accepted a new multi-year contract which gave them an 8.2 per cent pay rise over four years in return for ending the dispute.

Earlier this year the BMA called for the multi-year pay award to be urgently reviewed due to the cost-of-living crisis and the contribution of all trainees to responding to the COVID-19 pandemic. Despite this the Government excluded junior doctors in England from the 2022/23 pay award process because their contract was still subject to the current pay deal still in force. This went against the advice of the independent pay review body and the current contract agreement, which allowed the amount to be revisited if the situation changed.

### **What is pay restoration?**

This is a demand for pay rises to counter years of real-terms pay decline and erosion. The BMA claim for pay restoration considers Retail Price Index (RPI) adjusted equivalence inflation since 2008/09 and in reality, this would require an uplift in pay of over 30 per cent (immediately or the equivalence over a number of years).

The BMA are also emphasising that the health service is now under extraordinary and unprecedented pressure and that the BMA is deeply concerned that ongoing pay erosion will continue to drive doctors and dentists out of the profession at a time when the NHS can least stand to lose them, leading to a vicious cycle of crippling staffing shortages and worse patient care.

### **Is it straightforward to take industrial action?**

There is no legal right to strike in the UK, but there is statutory protection for the organisers of industrial action provided all the relevant statutory requirements are met. There is also protection from unfair dismissal for employees participating in official and lawful industrial action. The rights and responsibilities of employers, staff and trade unions are covered under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

Part of this process is that any trade union must hold a ballot before organising any form of industrial action. Industrial action must also be in furtherance of a 'trade dispute' in place between workers and their employer. A trade dispute must relate to a matter specified in the relevant legislation and this would include, but isn't limited to, terms and conditions of employment. A trade union should normally be able to demonstrate that other methods of resolution for a dispute have been considered and addressed (this provision relates to the code of practice issued by the government). Only with the above conditions met could the BDA conduct a statutory ballot of its members on industrial action.

On March 1 2017 the Trade Union Act 2016 (TUA) introduced new restrictions on trade unions and their members as to how and when they could take industrial action. There are now strict legal thresholds in England in terms of voting turnout that need to be met in respect of any statutory industrial action ballot organised by the BDA, for industrial action to be lawful. **To be successful, any ballot must have a turnout of over 50 per cent of eligible members voting and with the majority of these voting in favour of the proposed industrial action.** Any formal ballot must be conducted by post. If the balloting thresholds are not met, the BDA as a trade union will not be able to call our members out to take lawful industrial action.

It is also a requirement of the 2016 Trade Union Act that members are provided with a clear description of the trade dispute and the planned industrial action on the ballot paper, so that all union members know what they are voting for. The trade union recommending industrial action must therefore be able to articulate a clear and agreed description of the trade dispute which

includes but is not restricted to: the specific objective/outcome which is being sought by taking industrial action; the end conditions for the dispute; and whether the proposed industrial action is open-ended or limited. The trade union must also give a weeks' notice to the employer of our intention to hold the ballot.

### **What is an indicative survey?**

An indicative survey allows us to informally gauge members' appetite for taking industrial action, prior to a formal ballot and is not subject to the same level of legal requirements described above. It is important to clear that the BDA is not, at this stage, proposing that trainee dentists who hold an NHS contract in England take industrial action. The indicative survey is as stated above to gauge at this stage your views on this potential option.

### **How could taking industrial action result in loss of pay?**

Successful industrial action may require repeated or long periods of strike action. An employer can legally deduct your wages for taking part in industrial action and it is likely that employers will refuse to pay staff taking industrial action. Where pay deductions are made these should at all times be reasonable. Pay is not normally deducted for action short of a strike.

### **What is the position regarding my responsibilities against GDC standards?**

The General Dental Council (GDC) provide industrial action guidance on their web site. They state that the decision to hold industrial action is a matter for the BDA and its members. However, they provide guidance to dentists who may be considering taking industrial action and ensure they are clear about dentists' responsibilities against GDC standards under these special circumstances.

The GDC guidance makes it clear that whilst dentists will not find themselves at risk of regulatory action simply by having exercised their right to take lawful industrial action, any dentist who decides to take industrial action must remain responsible for upholding the standards. Specifically, they must continue to put patients' interests first. They also state that during periods of industrial action they have previously advised that dentists should treat their absence in the same way as other planned absence, taking steps to make sure that arrangements are in place for the care of their patients. Further details are provided on the [GDC website](#).

### **What would be the impact on my postgraduate training?**

Those considering taking industrial action would also need to consider the potential impact on their postgraduate training. At this stage it would be difficult to estimate the length of any potential dispute with Government and how this would impact on individual hospital dental trainees. The requirements for training are provided within the UK Committee of Postgraduate Dental Deans and Directors' (COPDEND) [Dental Gold Guide](#).

### **What is the situation in Scotland, Wales and Northern Ireland?**

The BMA is not proposing undertaking a ballot on industrial action within Wales, Scotland or Northern Ireland.

### **Why do you need to respond to this indicative survey?**

Whatever your views, it is essential that you respond. This survey will potentially lead to a ballot and hospital dental trainees undertaking industrial action for only the second time. You should complete the survey using the link provided. We have tried to ask the minimum number of questions possible to gauge your views.

### **Further information**

In addition, there is further detailed information on the BMA website,  
<http://bma.org.uk/juniorcontracts>

These FAQ will be updated on a regular basis to ensure that we are addressing any further queries raised by hospital dental trainees.