

Public health registrars and the resident doctors ballot on industrial action in Wales

Public health registrars and the resident doctors ballot on industrial action in Wales

In balloting resident doctors in Wales for industrial action, the BMA is legally obligated to ensure that only resident doctors who are eligible to take part in any industrial action are balloted. At the same time, we want to make sure that everybody who is eligible can take part.

The contractual position of public health registrars is complex, and we have sought considerable legal advice in relation to who to include in the ballot.

Complexities around public health registrars

Public health registrars in Wales are employed by Public Health Wales or under the Single Lead Employer model which is hosted by NHS Wales Shared Services Partnership. However, training also includes placements in host organisations, which can be outside of the NHS.

The current trade dispute is between the BMA and NHS health boards and trusts regarding resident doctor pay levels.

For the purposes of public health registrars, a host organisation is any organisation where you work but who do not pay you directly. For public health registrars in Wales, many of these host organisations are NHS health boards/trusts, however, where host organisations are not an NHS employers they are not party to the dispute.

Public health registrars on placements may have documentation which indicates an obligation to provide labour for that organisation. Examples include but are not limited to honorary contracts, memoranda of understanding, roles and responsibilities documents, line management arrangements, arrangements regulating hours of work or performance of a work schedule, and requests for annual leave. It is important to note that none of these documents necessarily need to be signed or countersigned for them to represent an obligation to provide labour.

Taking part in industrial action when you have an obligation to provide labour to a host organisation (that is not party to the trade dispute) is known as secondary action and could have an impact on the validity of the entire ballot.

Deciding who to ballot

If all public health registrars were included in the ballot and took part in industrial action, this would risk giving rise to secondary action. The BMA would therefore have run the risk of inducing public health registrars to act in breach of their obligation to provide labour to a host organisation that is not party to the dispute.

In addition, as the BMA is not in dispute with non-NHS host organisations, it would also not have complied with the ballot notification requirements laid down in law.

All this would lay the ballot open to challenge.



Below we detail who will and will not be balloted and the reasons why:**Public Health registrars with an honorary contract with a non-NHS Employer**

This group will not be balloted and cannot take part in any action under their contract with the public health body. We understand that at present only a few public health registrars in Wales hold honorary contracts with non-NHS employers.

Public health registrars with no honorary contract with a non-NHS Employer

This group will be balloted and can take part in industrial action, as we are balloting for full industrial action rather than action short of industrial action. You will need to have been recorded as a "Public Health trainee without an honorary contract" in order to receive a ballot. You can check and amend this up to 6 December through our website or by contacting juniordoctorspay@bma.org.uk.

If you are unclear whether you have an agreement of a contractual nature with the host organisation and require further advice on this, please contact the BMA.

Academic public health registrars

Please see the separate advice for academic trainees.

Recording the information on the BMA Membership System

To protect the integrity of the ballot and to allow for eligible public health registrars to take part, we have contacted all registrars to ask that they review their contact details and employer details on the online member portal.

The online member portal now allows you to specify if you are "Public Health trainee without an honorary contract" or a "Public Health trainee with an honorary contract". You should only record yourself as "without an honorary contract" if you are certain you do not have any obligations of labour in any form (work plan, timetable, roles and responsibilities document etc..) to a non-NHS organisation. If you are unsure, please contact us at juniorspaywales@bma.org.uk.

Please note you will need to select "Public health medicine" under Branch of Practice option for this to become available.

We would also advise that any public health registrar who has recorded themselves as a resident doctor on the membership system with the specialty of public health, moves to one of these two new membership grades.

Leading up to and during the ballot period, we will continue to contact public health registrars to ensure their employment status is recorded accurately.

What to do if you receive a ballot and don't think you are eligible

If you are ineligible to vote and have received a ballot in error we ask that you contact us by calling 0300 1231233 or email juniorsdoctorspay@bma.org.uk – please do not return your ballot.

This is so your ballot can be voided and not counted against the overall threshold.

Further advice

Further advice will be provided on what registrars who are not being balloted can do on the days of action to support the action and on whether they can refuse to be redeployed.

If you are not being balloted as a result of these decisions and you feel you are eligible, please contact us at juniorspaywales@bma.org.uk

This advice only applies to public health registrars in Wales.