



## **Speaking up for pension fairness**

### **MiP guidance on industrial action and contingency planning for 30 November**

#### **1. Speaking up for pension fairness**

MiP members are able to join members of Unison, other health service unions and other public sector unions in taking industrial action on 30 November. Members who are unable to take industrial action are able to show their support for the day of action in other ways. MiP members are determined to send a clear message to ministers. We want ministers to talk constructively to us about fair pensions for our members that continue to be sustainable.

No-one has worked harder than MiP to seek a negotiated settlement, often in the face of delay and procrastination by ministers. The recent significant movement by ministers was achieved by the incredible pressure and protest by staff and their unions against the attack on NHS pensions. While welcome, the recent statement about public sector pension schemes was not an offer for the NHS pension scheme. It also does not close the huge gap between what ministers are proposing and our current pension scheme.

We need to keep up the pressure on ministers and demonstrate the anger of all MiP members about this matter.

Through the pay freeze and high inflation, many MiP members have seen and will see a cut in their living standards of up to a fifth. There is also considerable anger at the change – without consultation or negotiation – of the index for uprating pensions from RPI to CPI. This change means a cut in the value of pensions of at least 15% before any further changes are implemented.

MiP is continuing to negotiate for pension fairness right up to and beyond 30 November. We will consult MiP members when – and if – we receive a firm offer for the NHS pension scheme.

Please keep yourself informed about the progress in the pension talks on our website. If you do not regularly receive emails from MiP, then we might not have your up-to-date email address. Visit our website to update your membership record.

## **2. Lawful participation in industrial action**

MiP's national committee asked Unison to include MiP members in the Unison ballot for industrial action. The result of that ballot was in favour of industrial action in the form of strike action by 4 to 1.

The ballot result covers MiP members. You may therefore participate in lawful industrial action on 30 November, if you or other MiP or Unison members in your employing organisation were balloted.

You can participate in industrial action even where you joined MiP after the close of the ballot on 3 November.

If you don't know whether your organisation was part of the ballot, please contact your MiP national officer.

## **3. Patient safety and dignity: planning and availability of managers on the day of action**

MiP is committed to ensuring that patient safety and dignity are not compromised by the industrial action on 30 November. It is the employer's responsibility to ensure there is sufficient provision to protect patients' safety and dignity. We will co-operate with employers in their planning for the day and on the day. We encourage our members to do the same. Many MiP members will also be responsible for planning.

Historically, managers in the NHS have taken responsibility for planning during industrial action, and contingency plans have relied on the availability of managers on the day of action. Colleagues in other unions respect these responsibilities and should fully understand that some managers will be responsible for contingency planning or will have to work on the day of action or both. Similarly, employers understand and should respect the right of employees, including managers, to take lawful industrial action.

Employers should take a pragmatic approach to planning for cover on the day of action. NHS Employers has published guidance for employers on planning for industrial action, available on their website<sup>1</sup>: [Managing industrial disputes](http://www.nhsemployers.org/EmploymentPolicyAndPractice/UKEmploymentPractice/ManagingIndustrialDisputes/Pages/ManagingIndustrialDisputes.aspx)

MiP members will wish to discuss with their own manager whether or not they are required to be available to ensure patient safety and dignity during the industrial action.

In most cases the process and decision will be straight forward. However, you may feel that your employer is asking you to be available on the day of action

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<sup>1</sup>

<http://www.nhsemployers.org/EmploymentPolicyAndPractice/UKEmploymentPractice/ManagingIndustrialDisputes/Pages/ManagingIndustrialDisputes.aspx>

unnecessarily. You should therefore contact your MiP national officer for advice and representation if needed.

#### **4. Other unions and other staff**

Some MiP members are being asked to establish which members of their staff are going to strike on 30 November.

While it is not unlawful for employers to ask for this information, it is not necessary. The employer will be informed by the unions concerned which of their members will be called on to take strike action. It could also be intimidating for staff, and uncomfortable for our members. Unison's legal department has advised Unison members NOT to provide this information if asked. So it is far better not to ask the question and work in partnership with the unions themselves to ensure patient safety and dignity is maintained.

#### **5. Take action on 30 November**

Many MiP members will take industrial action on 30 November. On the day, we are hoping for a strong presence on picket lines and at rallies around the UK to show the depth of feelings of anger and frustration within the healthcare team at the lack of progress in negotiations and arbitrary changes to the NHS pension scheme.

Members who are unable to take industrial action can show their support for the protest by visiting picket lines, attending any events in their free time and wearing an MiP pension fairness badge. They can also donate the day's pay to union hardship funds.

#### **6. MiP link members**

MiP link members should liaise with Unison and other health unions to find out about plans for their workplace – whether our members can join picket lines and whether there are any rallies planned.

MiP national officers will have local information as well, and link members can contact them for information about where their national officer will be on the day.

See the MiP website for details of [link members](http://www.miphealth.org.uk/Aboutus/locallinkmembers.aspx)<sup>2</sup> and [MiP national officers](http://www.miphealth.org.uk/Aboutus/MiPTeam.aspx)<sup>3</sup>.

See below for some FAQs which we hope are helpful to members.

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<sup>2</sup> <http://www.miphealth.org.uk/Aboutus/locallinkmembers.aspx>

<sup>3</sup> <http://www.miphealth.org.uk/Aboutus/MiPTeam.aspx>

## **7. FAQs**

### **7.1 Who can take industrial action?**

If an employer has been notified of the intention to ballot, then ALL members employed by that employer were included in the ballot. Unfortunately, a few members did not receive ballot papers, but they are still legally covered by the outcome of that ballot and may lawfully take industrial action. If an employer was not balloted, members in that employer may not take industrial action.

### **7.2 Participation by new members in industrial action**

Members who joined MiP after the ballot, even though they were not included in the vote, are entitled to take industrial action. Anyone who joins up to the day of action has the support of the ballot. Since they will be taking part in industrial action that is supported by a statutory ballot, these members have just the same protection from dismissal as members who were given a vote.

### **7.3 Members of regulated professions**

The Nursing and Midwifery Council issued a public statement on 5 October 2011, confirming that taking industrial action is not a breach of the nurses' code of conduct. In our view, the same applies to all regulated healthcare professions (including the Health Professions Council and General Pharmaceutical Council); nothing in the professional codes prevents a registrant from voting for a taking lawful industrial action.

### **7.4 When will the industrial action take effect?**

The day of action will be 30 November 2011 and members will be informed if any further action is planned. The action will commence at 12 midnight and continue for a 24 hour period.

### **7.5 Picketing**

There is no 'right to picket' as such but peaceful picketing has long been recognised as a lawful activity. Unison has produced guidelines on picketing, which will be posted on our website.

### **7.6 Emergency cover**

It is the employer's responsibility to provide emergency cover which will need to be negotiated locally. Managers should discuss this with their employer or line manager.

Unison's health group has issued guidance which members may find useful if they are involved in planning or providing essential and emergency cover or contingencies, available on their website: [Unison guide to emergency cover](#) <sup>4</sup>

### **7.7 Legal protection for those taking industrial action**

All employees are protected from dismissal during the first 12 weeks of any lawful, balloted, official industrial action. During these 12 weeks the protection is absolute. Any dismissal regardless of how long the employee has worked, or their age, is automatically unfair unless a tribunal decides the dismissal was not to do with the industrial action.

### **7.8 Sick leave and pay**

Workers absent on sick leave when a stoppage of work starts retain their right to statutory sick pay during the period of industrial action. If an employee reports sick on the day of action, the employer can be expected to make their own judgement as to whether they should be regarded as on sick leave or on strike.

### **7.9 Annual leave**

MiP does not regard anyone who takes annual leave on a day of action to be participating in strike action.

### **7.10 Use of employers' resources during industrial action**

MiP link members should exercise caution when using employers' resources, such as phones or work cars, during industrial action. Checks should be made in terms of what the contract of employment or the union agreement allows. Any queries should be raised with the national officer in the first instance.

### **7.11 Members who do not take industrial action**

No member may suffer a disciplinary penalty by the union for not participating in industrial action.

### **7.12 Loss of pay**

Unison will negotiate with employers that deductions are taken from the January rather than the December pay packets.

### **7.13 Hardship payments**

There will be no 'strike pay' for this day of action for MiP or Unison members. Unison branches are able to make hardship payments to their members in line with guidelines issued by its NEC. MiP members who wish to donate their pay for the day of action to a hardship fund should contact their local Unison branch.

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<sup>4</sup> [http://www.unison.org.uk/pensions/pages\\_view.asp?did=13746](http://www.unison.org.uk/pensions/pages_view.asp?did=13746)