



British Medical Association  
**Standing up for doctors**

## Public sector pensions day of action - 30 November 2011

### FAQs for GPs

- [What is my position if my staff decide to take industrial action?](#)
- [Can I withhold pay from those members of staff who participate in lawful industrial action.](#)
- [What impact could industrial action by other unions have on my GMS/PMS contract with my primary care organisation \(PCO\)?](#)
- [Can I hire agency workers to cover for staff who are participating in industrial action?](#)

### What is my position if my staff decide to take industrial action?

If the industrial action is lawful (ie it has been approved by a majority of the union's members in a ballot) then from a legal point of view, there is nothing that you can do to stop the industrial action. The BMA is encouraging GPs to take a tolerant attitude to lawful industrial action by their staff on the day of action, bearing in mind that patient safety must be paramount. Trade union law requires that an employer is given prior notice of a ballot for industrial action and of a decision to proceed. The notice will identify the action contemplated and the categories of employee who are likely to be involved in the action (although not their individual names). You should, therefore, have time to prepare.

Consideration should also be given as to whether practice staff who are not involved in industrial action are able to cover for those staff who are. Staff contracts of employment should be carefully checked to see if they include flexibility clauses.

### Can I withhold pay from those members of staff who participate in lawful industrial action.

Yes. An employee is not entitled to be paid for the period in which he/she has taken industrial action. You are strongly advised to take advice from the BMA by emailing [30nov@bma.org.uk](mailto:30nov@bma.org.uk) (please provide your membership number and a contact telephone number) as to the amount of money which can be lawfully deducted.

In relation to pensions, a day of industrial action would be a 'disallowed day'. This means that an employee would lose day of pension accrual.

### What impact could industrial action by other unions have on my GMS/PMS contract with my primary care organisation (PCO)?

It is very unlikely that a PCO will take any action. The planned day of action is well known and is something which is outside the control of GP principals.

To protect your position, you are strongly advised to contact your PCO well in advance of the 30 November to seek clarification as to what is expected of you. It is likely that GP practices will be expected to take reasonable action to mitigate any disruption.

### Can I hire agency workers to cover for staff who are participating in industrial action?

No. It is a criminal offence to do so. Strictly speaking, it would be the agency who commits the offence. However, there is risk that a doctor could also be prosecuted for aiding and abetting.

**Back to:** [Public sector pensions day of action](#)