



Right to Strike FAQ's

February 2023

Frequently asked questions (FAQs)

If you have a specific query which is not covered here, please contact the PDA team for advice on 0121 694 7000

1. What is industrial action?

Industrial action is an act carried out by employees or an employer which prevents the operation of the contract of employment in order to further an industrial dispute between employees and their employer e.g., about pay, terms and conditions or dismissals.

For employees, these acts include:

- **Strike**- an organised refusal to work by employees.
- **Action short of strike** -this often involves a refusal to perform full normal duties, like go-slows, not working overtime or work to rule.

These acts by employees constitute a breach of contract, but the law protects employees when it is lawful industrial action. Protection is provided under the Trade Union and Labour Relations (Consolidation) Act 1992, which gives immunity to trade unions from being sued if their union takes industrial action 'in contemplation or furtherance of a trade dispute.'

Industrial action is regarded by most trade unions and its members as a last resort after negotiations and/or other campaigns have failed.

Individuals cannot strike. They must be members of a trade union and that trade union must ensure that the industrial action is lawful.

2. What are the laws governing strike action?

The Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) states that for industrial action to be lawful a valid dispute must already exist and be in relation mainly to: terms and conditions; recruitment, suspension, or dismissal; work allocation; discipline; facilities for union officials; or the machinery of negotiation. The dispute must be with the employer and cannot be between groups of workers, or for political reasons unconnected with terms and conditions of employment.

Current balloting and notice conditions for lawful industrial action are covered by the TULRCA for Northern Ireland, and the Trade Union Act 2016 (TUA 16) for Wales, England, and Scotland. In Northern Ireland, a ballot requires a simple majority of members (more than half) to vote yes to validate the action.

In Wales, England, and Scotland, at least 50% of those entitled to vote must vote and a majority of those voting must vote in favour of the action. In England and Scotland, additional rules also apply to health services which are considered 'important public services' and, in this sector, those in favour of the action must make up at least 40% of those who are entitled to vote.

Legislation which currently applies:

- [Trade Union Act 2016](#)
- [Trade Union and Labour Relations \(Consolidation\) Act 1992](#)
- [Police, Crime, Sentencing and Courts Act 2022](#)

Proposed legislation:

[Strikes \(Minimum Service Levels\) Bill - Parliamentary Bills - UK Parliament](#)

Most unions will take legal advice before embarking on a dispute.

3. What do members of a union have to do to strike?

Where an indicative ballot reaches the threshold and there is a positive vote in favour of industrial action, the union proceeds to a more formal postal ballot. The postal ballot would be managed by an independent scrutineer – anonymous, transparent and independent.

If the ballot outcome is a lawful 'yes' vote for industrial action, then the NEC (National Executive Committee) of the trade union will decide if and when to schedule any action.

In order to strike, members must be a current member of the trade union that has been balloted for the strike. Members cannot be forced to strike but it is part of belonging to a democratic union that decisions are made collectively.

You do not need to tell your employer if you are going on strike and your union will provide your employer with all the information about the action required by law.

4. What is an indicative ballot?

Unions will conduct an indicative ballot to test the strength of feeling of their members about taking industrial action. This is not a formal ballot whereby legislative requirements

must be met, but rather a tool which indicates to the union as to whether it is worthwhile proceeding a full ballot based on how many members vote and whether they are likely to support industrial action.

Taking industrial action is costly in terms of resources, the cost of conducting the postal ballot, and the fact that members will lose pay on strike days. In addition, the laws introduced in 2018 mean that there is a threshold requiring at least 50% of members to have voted for the outcome to be valid (and 40% must have voted in favour of industrial action if they work in the public sector). Therefore, it's important to conduct an indicative ballot in advance.

The indicative ballot informs the union in its decisions by indicating whether the threshold will be reached and whether members are broadly supportive of industrial action or not. At the PDA, the results of such ballots are reported to the National Executive Committee who make the final decision as the democratically elected body of the PDA.

Some unions may have built up strike funds through their members donating money over previous years to a ringfenced fund reserved for that purpose. A strike fund can then provide financial support to members who take strike action, to lessen the financial impact on them as individuals.

5. What is action short of strike action?

Industrial action can take two forms, one of which is striking and the other being Action Short of Strike (ASOS). ASOS means that rather than completely withdrawing labour as happens during a strike, members incorporate action into their daily, working life.

Action short of a strike means that individuals taking part will work normally, apart from duties that the union is asking its members to refuse to undertake, for example, not undertaking on-call activities or overtime, not mentoring or training of colleagues including new starters and not covering duties and tasks of other roles/grades.

Individuals cannot just decide to undertake ASOS and, as with striking, members must have been balloted and legal processes followed.

Legislation in England, Wales, and Scotland requires unions to describe the ASOS they intend to take on ballot papers. Specific ASOS actions do not have to be listed on a ballot in Northern Ireland.

6. How can we support other workers who are on strike?

You can show your support by sending messages of solidarity through social media, visiting the picket line (but not staying there) and giving to the strike fund or buying a coffee or other gifts of food for those striking. Please take photos of yourself with them and share on social media if you feel comfortable.

7. My colleagues in another union are going on strike. Can I strike alongside them?

The short answer is 'No'. You can only strike if your trade union has conducted a ballot with a positive outcome. However, you can show your support for your colleagues who are on strike by going to the picket line, taking some hot drinks and so on, or tweeting your support for them.

8. Who can join a picket line?

Union members involved in the dispute who have been legally balloted can join a picket line at or near their place of work for the purpose of 'peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.'

Picketing somewhere that is not your workplace is unlawful, however trade union representatives and officials can join a picket line where they represent striking members at that workplace.

Trade unions must appoint a picket supervisor for each picket line, who should be easily identifiable as such.

There is no legal limit to the number of pickets allowed, although the governments code of practice on picketing says, 'pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to, or exit from, a workplace; frequently a smaller number will be appropriate.'

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10. Should I cross a picket line in order to go to work?

The decision to take industrial action is made democratically and is a collective decision. Once that decision has been made there is an expectation that this is then supported by members across the union.

On the picket line, pickets can peacefully provide information to and communicate with anyone to seek to persuade that person not to cross a picket line.

If you are not a member of the union that has been balloted for strike action, then you will be required to attend work and carry out your normal duties. Other staff should not be expected to cover the roles of those members who are taking strike action.

11. What is the aim of the strike?

In order to take strike action, you would need to be an employee and member of the union who has been balloted for strike action.

As a locum you are self-employed and are therefore precluded from taking strike action.

However, you may wish to support your fellow pharmacists who may be taking strike action. You can show support to a picket line by visiting them briefly and may also show support by signing petitions. Where the employees are in dispute, you can consider the campaign and the concerns of fellow pharmacists when making your decision to accept shifts offered by employers. Often these shifts will attract a premium, but you can demonstrate solidarity during the dispute and we would ask all members to ensure that they support their fellow pharmacists in achieving the aims of the industrial action.

12. What is a strike fund, and does the PDA Union have a strike fund?

An employer is entitled to withhold payment for each day of strike action meaning that an employee will usually give up a day's pay for each day they strike. Some unions may have built up 'strike funds' through their members donating money over previous years to a ringfenced fund reserved for that purpose. A strike fund can then provide financial support to members who take strike action, lessening the financial impact on them as individuals. The PDA has never asked members to donate to a strike fund and so there is no such fund for any strike of PDA members at this time.

For a comprehensive definition and explanation of industrial action, please click [here](#).