Introduction

This checklist aims to assist you in your discussions with your board, highlighting the key areas that you will need to consider and the decisions that will need to be taken, as you move towards any industrial action.

NHS Employers, working together with its strategic partner Capsticks, has also produced guidance on Industrial action and contingency planning which can be found on our website. We have listened to the feedback from the chairs of our HR director forums, together with our lead negotiators on how we can help further when drawing up this checklist.

Key areas to consider

Every employer will have unique factors to consider in managing industrial action, however the five areas listed below, will apply to almost all workplace environments.

1. Risk

All of your planning will be based on this assessment which will also provide a justification for the reasonableness of your final decisions. We have also prepared a separate risk matrix, available at www.nhsemployers.org/industrialaction, to guide the decisions you need from your board on some of the following key areas.

  — how much do you know about any potential action?
  — what is the risk to your service or services?
  — to help ascertain the level of risk, you can write to staff to ask them if they intend to take part in any industrial action – remember there is no obligation on their part to reply. See our outline template, available at www.nhsemployers.org/industrialaction, for suggestions on content for these letters.

2. Decisions

When preparing for industrial action there are some areas that will require a clear decision from the board. These decisions will need to be communicated to staff and local trade union representatives in advance of the start of any action. These areas may include:

  — how calculations for pay deduction for strike action will be made
  — agreement on how partial shift working will be treated – based on service needs and not a blanket decision across the trust
  — definition on what will constitute as normal working and therefore what should be continued to be delivered during a period of work to rule
  — areas you would seek exemptions.
3. Communications

Clear and timely communications will be an essential tool to help you prepare for a period of industrial action. The following are some of the key stakeholders for you to communicate with.

Your trade unions
— It’s essential to ensure good information is provided ahead of the required seven days’ notice
— It’s essential for maintaining good working relationships and local agreement for exemptions.

Your staff
— Are your staff aware of the implications and impact of decisions taken by the board and how it may affect them – such as pay, overtime etc?
— What channels do you have in place to deliver effective and timely communications to staff?
— When communicating with staff, ask them what they want to do during the period of industrial action. Some may not want to do anything at all which you can advise is a valid option for them.
— Is the union involved in the communication? This demonstrates that lines of communication are open between employer and employees.

The public and patients
— Which services will be affected and how?
— What action do you want the public to take?
— How can you reassure the public?

Partner organisations
— What role are commissioners taking and how are you keeping them informed?
— What support can they offer in communicating with the public and patients?

4. Contingency planning

From the decisions taken by the board and in adherence with professional codes of responsibility and accountability you may want to consider:
— Where can you ask staff to work? Have you agreed a protocol with your professional leads or directors?
— Where can you source alternative staff? See our summary guidance, available at www.nhsemployers.org/industrialaction, on your options for staffing during industrial action.
— What can and can’t you ask staff to do during a period of industrial action?
— How are you involving the trade unions locally? (Please see exemptions below).

5. Exemptions

The national trade unions have told us that they will not be able to agree to a set of blanket exemptions at national level. Discussions on exemptions will need to be undertaken at a local level and may have to be cleared by more than one regional officer.
— Seek to agree a clearly defined set of exemptions, to be agreed between employers and unions, so they can both be clear in their communications of who is exempt from being able to take part in action.

For further Information please see our guidance on Industrial action and contingency planning. Available at www.nhsemployers.org/industrialaction.