

Briefing on the actions of NHS England South (South East) and the NHS in South East England in response to the British Medical Association's industrial action over the winter of 2015/16

To: Kent HOSC

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Purpose of this Paper

1. The purpose of this paper is to:
 - Summarise the background to the industrial action by the British Medical Association (BMA)
 - Summarise the actions which were taken by NHS England to secure pre-action assurance from the NHS in the South East of England
 - Set out how NHS England South (South East) and NHS providers and commissioners in the South East supported and monitored the impact of industrial action on the NHS in the South East during the planned direct industrial action
2. This is a relatively fast moving issue and some detail may have change post circulation of this paper.

Introduction

3. There are 53,000 Junior doctors employed in England. Juniors' are defined as doctors and dentists in approved postgraduate medical and dental training programmes in the UK. This includes:
 - those in GP training
 - approved less than full time training programmes
 - academic doctors in training
 - public health doctors in training where they have an NHS employment contract.
4. In 2012 the Government asked the British Medical Association (BMA) to look into negotiating a new contract for junior doctors. After 2 years of negotiations, the BMA withdrew from the table because they did not feel that the contract on offer provided sufficient safeguards for junior doctors and their patients.
5. The Government asked the Doctors' and Dentists' Remuneration Board (DDRB) an independent body to undertake a review and provide recommendations for a new contract. After the recommendations were released the Government asked the BMA to re-enter negotiations with the recommendations of the DDRB review as the basis of the talks. The BMA did not agree to that and the Government stated they would impose a new contract from August 2016. On 26th November 2015 it was confirmed that both parties would utilise the services of ACAS

(Advisory, Conciliation and Arbitration Service) to try to reach a resolution to the dispute.

6. The BMA balloted eligible members from 5th November – 18th November 2015. On a turnout of 76% the BMA voted, 99% voted for action short of a strike and 98% voted to take part in strike action.
7. Industrial action was planned for three dates in December 2015, on 1st, 8th and 16th, but was suspended the night before it was due to take place so that negotiations could commence between Junior Doctors representatives and the Government.
8. On 4th January 2016, the BMA announced 3 further strike dates; 12th – 13th January, 26th – 28th January and a full withdrawal of labour on February 10th 2016.
9. Following 24 hours of direct industrial action with emergency cover provided from 12th – 13th January 2016, the BMA suspended the direct industrial action which had been planned for 48 hours from 26th – 28th January 2016. The BMA took further direct industrial action, again providing emergency cover only from 0800hrs on Wednesday 10th February to 0800hrs on Thursday 11th February 2016.
10. On 23rd February 2016, the BMA informed the NHS in England and the Government that it intended to launch a judicial review to seek to overturn the decision to impose the new contract. The BMA also announced three further strike dates; a further 48 hours from 8am on Wednesday 9 March to 8am on Friday 11 March, a second 48 hours from 0800hrs on Wednesday 6 April to 0800hrs on Friday 08 April 2016 and a third 48 hours from 0800hrs on Tuesday 26th April to Thursday 28th April 2016.
11. On 23rd March 2016 the BMA announced that it was escalating its proposed industrial action and a full walkout, including emergency cover, would take place between 0800hrs and 1700hrs on Tuesday 26th April and 0800hrs and 1700hrs on Wednesday 27th April 2016. NHS England described the proposed action as “a very significant change from previous periods of action”.
12. Talks between the Government and the BMA resumed on Monday 9th May 2016, and were extended on Friday 13th May 2016 until Wednesday 18th May 2016. On 18th May it was confirmed that the Government negotiators and the British Medical Association leadership have reached an agreement and the offer will now be put to a referendum of BMA members.

Actions taken by NHS England to secure pre-action assurance from the NHS in South East England

13. In response to the planned industrial action NHS England liaised with the NHS in England requesting pre-action assurance templates ahead of each round of planned industrial action from acute, community and mental healthcare providers. This was in line with our duties under the Health and Social Care Act 2012 which states that NHS England and clinical commissioning groups must take appropriate steps for securing that the NHS is properly prepared for dealing with a relevant emergency.

14. Pre-action assurance focused on ensuring that healthcare providers could continue to deliver emergency patient care safely and sought to establish the staffing baseline that are eligible to take industrial action.
15. Ambulance service providers were not asked for a return for the initial periods of action. However, South East Coast Ambulance Service NHS Foundation Trust (SECAMB) also put in place specific plans for the period of direct industrial action. SECAMB also wrote to Acute Trust Chief Operating Officers / Directors of Operations and Chief Officers Clinical Commissioning Groups to ensure they are aware of SECAMB's plans and asked commissioners to work with primary care to ensure that any Health Care Professional (HCP) referrals made during the periods of direct industrial action are visited and reviewed rather than assessed over the phone.
16. For the most recent round of planned industrial action which included a full withdrawal of labour, including emergency care, NHS England wrote to the NHS in England requesting pre-action assurance templates from acute, community and mental healthcare providers, which focused on, but were not limited to:
 - Emergency Departments
 - Acute medicine (including Percutaneous coronary intervention (PCI) for ST-segment elevation myocardial infarction (STEMI) and acute stroke)
 - Acute paediatrics and neonatology
 - Intensive care
 - Maternity Services
 - Emergency surgery, all specialties (adult and paediatrics)
 - Trauma
 - Mental health – crisis intervention teams
 - Resuscitation teams
17. This was further supplemented by a whole local healthcare system review of the plans in place through the System Resilience Groups (SRG), focusing on the continued and safe level of urgent and emergency healthcare provision for patients. This covered all parts of the healthcare system which work to deliver patient care including ambulance services, primary care, social care, 111, acute, mental health and community care providers, CCGs and NHS England as well as working with social care partners and planning for the time before and time after the period of industrial action.
18. Ambulance service providers were also asked for a return and South East Coast Ambulance Service NHS Foundation Trust (SECAMB) revised its planning assumptions in light of the escalation of the action to include a full withdrawal of emergency cover.
19. Primary care services were not asked for a return. The NHS England Head of Primary Care Commissioning stated at the outset of this period of industrial action that there are a number of features that mean primary care is less impacted to the effects of strike action by trainee doctors than other healthcare providers. Whilst noting that there could be implications on primary care arising through reduced capacity in secondary care services:
 - GP registrars (GPR) are employed by the practice (though funded through HEE) and they are required to be supernumerary which means that although

they contribute to service delivery, they are not critical to service delivery in the same way as junior doctors in hospital settings.

- GP registrars cannot be left to work unaccompanied. Therefore in the event of a GPR taking direct industrial action, there will be clinical cover in place through the senior GPs covering the GPR.
 - Primary care can prove adaptable, with adaptations to how surgeries run, therefore if a GPR was taking strike action, other clinical staff can adapt the structure of the surgery, for example to give more surgery slots to 'same day' appointments rather than 'pre-booked' appointments, so the surgery has capacity to absorb additional requests for appointments. In addition the numbers in each practice are very low (one or two) and therefore the surgery can adapt to manage as they would do to cover annual leave for example, or when the GPR is in their induction phase.
20. Specific assurances were sought ahead of each period of planned industrial action that in the event of a Major Incident being declared, there were processes in place to ensure that Junior Doctors return to work to support the emergency response. Processes have been put in place to support this, agreed nationally between the BMA and NHS England
 21. National and local communications have been key in informing local populations about the industrial action on each occasion and helping them to access the healthcare that they need during the periods of industrial action.
 22. NHS England South (South East) has been in regular contact with our regional colleagues to keep abreast of the latest developments and planning of the national team who are working closely with the Department of Health to support the Cabinet Office Briefing Room (COBR) meetings which have been taking place in preparedness for this direct industrial action.
 23. NHS England South (South East) has also worked with all Clinical Commissioning Groups and NHS ambulance, acute, community and mental health providers across the South East to help ensure that collectively the NHS is as prepared as it can possibly be and to identify any particular areas of concern or greater risk.

How NHS England South (South East) and NHS providers and commissioners in the South East supported and monitored the impact of industrial action on the NHS in the South East

Command and Control

24. For each period of industrial action NHS England South (South East) set-up and ran one Incident Control Centre (ICC) to cover the South East. The ICC was open during the hours of industrial action during the day and reverted to usual on-call arrangements out of hours.
25. South East Coast Ambulance Service NHS Foundation Trust also put in place some additional command and control arrangements, co-located with their Emergency Control Centre (EOC) for each period of direct industrial action.

26. All provider organisations (acute, community and mental health) and clinical commissioning groups had some level of command and control arrangements in place for each period of direct industrial action.

Reporting

27. During each period of industrial action a number of returns were collected from acute, community and mental health providers. These were done via the NHS England national reporting system, Unify2.
28. Additional reporting was also conducting on occasions by NHS Improvement with specified trusts as and when it was felt necessary.

Impact

29. The hard work and planning ahead of each period of planned industrial action has enabled healthcare providers and commissioners across the South East to maintain patient safety throughout. Consultants and senior clinical decision-makers have supported services in the absence of Junior Doctors on each occasion and worked to maintain patient services in a planned way.
30. Many thousands of patients nationally have had their operations and/or outpatient appointments postponed. Each trust is managing the impact of these postponements to the best of their ability and re-booking these appointments at the earliest opportunity.

Next steps

31. The BMA still have a mandate to take industrial action. They are required to provide a minimum of 7 days' notice to take further industrial action.
32. We are also aware that the GMB is currently consulting with staff to gauge the appetite to balloting ambulance staff for industrial action and that Unison are proposing to ballot their ambulance staff members, too. NHS England South (South East) is maintaining watching brief on these.