

Royal College of Nursing



RCN Industrial Action Handbook

Updated October 2026



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1. Introduction

The RCN appreciates that members will have concerns about professional registration, employment and patient safety should you choose to take industrial action. Therefore, this guide aims to explain what industrial action involves, how it is initiated and organised, and how you can safely participate.

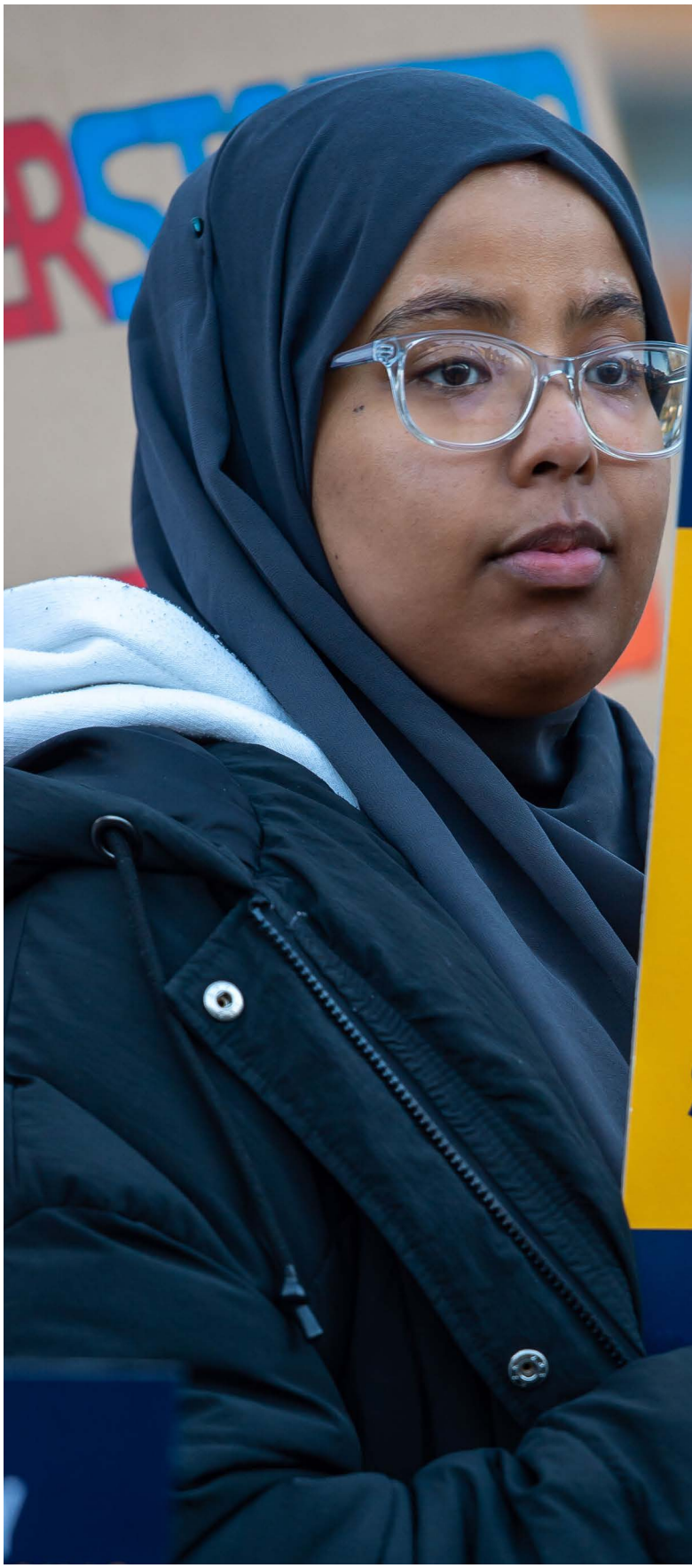
There is no positive right to strike in the United Kingdom or any of its crown dependencies (Guernsey, the Isle of Man and Jersey) but there is a freedom to organise and participate in industrial action.

However, industrial action is heavily constrained by the law. Notwithstanding that, when negotiations with employers break down, industrial action is a last resort to ensure the best outcome for members.

It is vitally important that all your details are up to date in case you are balloted and called upon to take industrial action.

Please note the statutory requirements referred to in this guide are those that are in force in England and Scotland where the legislation is most onerous. The key differences that apply in Guernsey, the Isle of Man, Jersey, Northern Ireland and Wales are set out in **Annex D**.

Only if all statutory requirements are met will the RCN be protected from being sued for inducing members to breach their contracts of employment by taking part in industrial action.



2. What is industrial action?



Industrial action can take two forms: action short of a strike and strike action.

A. Action short of a strike

There is no definition of action short of a strike but generally, it means working strictly to the terms of your contract of employment often referred to as "working to rule". This can include taking all your contractual breaks and/or starting/finishing your shifts strictly on time and/or refusing to undertake paid or unpaid overtime.

By working to rule, you are withdrawing the goodwill that your employer often relies on to carry out its business effectively. Therefore, action short of strike action can result in a disruption to an employer's business if carried out by most of the workforce. This may place pressure on an employer to reconsider its position in any industrial dispute.

B. Strike action

In contrast, strike action involves a complete withdrawal of labour from the workplace. This could be for half a day, a day or even longer depending on the dispute. Strike action will almost certainly result in a disruption to an employer's business and place greater pressure on an employer to reconsider its position in any industrial dispute.

Industrial action is a powerful weapon as labour is the most valuable asset many businesses utilise.

3. Grounds for industrial action

A. Protected industrial action

Industrial action can only be taken "in contemplation or furtherance of a trade dispute". This is a dispute between an employer and its workers in connection with one or more of the following matters:

(a) terms and conditions of employment, or the physical conditions in which any workers are required to work

(b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers

(c) allocation of work or the duties of employment as between workers or groups of workers

(d) matters of discipline

(e) a worker's membership or non-membership of a trade union

(f) facilities for officials of trade unions; and

(g) machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.

This is a complicated statutory definition, but most trade disputes fall within category (a) which relates to terms and conditions.

Industrial action is normally utilised in a trade dispute between employers and workers, but it is possible to be in dispute with a minister of the crown if certain conditions are met. However, the dispute itself must not be purely political in nature, such as in response to a government campaign.

B. Unprotected industrial action

There are circumstances when industrial action is not permissible and therefore will not be protected. These include:

(a) where a union takes industrial action without the support of a secret ballot

(b) where a union takes industrial action without first giving the employer notice

(c) where the action is taken by non-statutory pickets

(d) where the action is taken to enforce union membership

(e) where the action is taken in response to the dismissal of unofficial strikers

(f) where there is illegitimate secondary action

(g) where the action is taken to impose union labour only or union recognition requirements.

This type of action could result in a legal challenge from an employer or service user who may, or have, been affected by any such unofficial action.

This is usually in the form of an application for an injunction to restrain the action and, given its size, the RCN can be fined up to £250,000. This could also result in a claim for damages in respect of any financial loss suffered so it is important these rules are adhered to.

Members would also lose their ability to claim unfair dismissal if they are dismissed because they took part in unprotected industrial action.

4. Initiating industrial action

A. Dispute resolution

Before industrial action is contemplated, the RCN will explore all avenues to facilitate a resolution of any trade dispute. Including via collective bargaining mechanisms, working with other unions, utilising employers' internal grievance procedures, taking part in round table discussions, and engaging Acas. If those efforts fail, consideration can be given to initiating industrial action.

B. Approval routes

The RCN Standing Order 3.2 states that; "No industrial action will be taken by a member without the prior authorisation of the Council". Standing Order 3.5 further states that "The Council may delegate to a committee of the Council the power to make recommendations when, where and in what form industrial action may be taken by members." The relevant committee is the RCN Trade Union Committee.

The regional and country governance routes to secure a recommendation from the Trade Union Committee to initiate industrial action are set out in the RCN Code of Practice on Industrial Action included at Annex A. If the dispute is a national one, the Trade Union Committee will seek approval from Council.

RCN Council will ensure a trade dispute is present, that all informal attempts to resolve the dispute have been exhausted, agree the form of industrial action to be taken and the timetable for the ballot before issuing its authorisation.

C. Letter of dispute

In advance of a statutory ballot on industrial action, a formal letter of dispute will be sent to the employer or employers setting out the terms of the trade dispute. This is not a statutory requirement, but it is good industrial relations practice. This letter will be drafted by the RCN Legal Services department and issued by the appropriate RCN country or regional director.

D. Indicative ballot

The RCN may also ask members to take part in an indicative ballot to gauge member appetite for industrial action. This is a decision for country or regional boards to make wand if so, the Trade Union Committee should be informed.

If the country or regional board proceeds with an indicative ballot and it is negative, the Trade Union Committee and Council should be notified of the outcome.

If the outcome is positive, the country or regional board can proceed to a statutory ballot on industrial action, RCN Council's authorisation having already been secured.

E. Who to ballot?

It is for the country or regional board to agree its balloting constituency. However, only those members employed by the employer with whom the RCN is in dispute, and those it intends to call to action, can be balloted. RCN members employed in any capacity may be included in the ballot but students who are not employed cannot.

The RCN must not call out any member whom it deliberately excluded from the ballot. Minor balloting errors may occur and provided they don't impact on the overall outcome of the ballot any subsequent industrial action wouldn't be precluded. The RCN can also call out new members who become affected by the dispute following the issue of the ballot as industrial action often prompts recruitment.



5. Statutory ballot on industrial action

A. Statutory requirements

The RCN must undertake a statutory ballot before industrial action can commence. Industrial action will not be protected unless it has the support of a ballot.

There are numerous statutory requirements that must be complied with in respect of an industrial action ballot. Those requirements are:

(a) the RCN must appoint an Independent Scrutineer and make sure they comply with their requirements before, during and after the ballot, they must not suffer undue interference, and the RCN must comply with their reasonable requests

(b) the ballot must be a ballot of those members whom the RCN intends to call to take industrial action and no others, but minor accidental errors may be disregarded as stated above

(c) there must be a separate ballot for each workplace unless the dispute involves common terms across multiple workplaces and an aggregate ballot can be used

(d) the ballot must be conducted fairly and secretly, and every member entitled to vote must be allowed to do so without interference

(e) the RCN must give the employer or employers a week's prior notice before the intended opening day of the ballot of its intention to hold a statutory industrial action ballot.



B. Ballot paper

The ballot paper must also contain specific information:

(a) the name of the Independent Scrutineer

(b) the address and date for return of the ballot paper (if postal)

(c) it must be marked with a consecutive number in a series

(d) the voting paper must contain one of the following questions:

Yes or No, are you prepared to take part in a strike?

and/or

Yes or No, are you prepared to take part in industrial action short of a strike?

(e) there must be a summary of the matters in the trade dispute

(f) the ballot paper must specify the form of action short of strike if that is the proposed action

(g) it must indicate the period or periods when the action is expected to take place

(h) it must state who is authorised to call the action

(i) it must also include the following statement: "if you take part in a strike or other Industrial Action, you may be in breach of your contract of employment. However, if you are dismissed for taking part in strike or other industrial action which is called officially and is otherwise lawful, the dismissal will be unfair."

The RCN must supply the employer or employers with a sample ballot paper not less than three days before the opening day of the statutory industrial action ballot.

C. Thresholds

The Trade Union Act 2016 introduced a 50% turnout requirement for industrial action ballots.

The threshold operates as follows:

- 10,000 members balloted
- 5,000 turnout required and a simple majority must vote in favour of action.

If the threshold is not met, industrial action will not have the support of the ballot and action cannot take place.

D. Means of ballot

From 25 August 2026 it will be possible to conduct a statutory industrial action ballot using the following means in addition to postal voting.

Electronic voting: where the member is sent their voting materials electronically and can cast their vote electronically.

Hybrid voting: where the member is sent their voting materials by post and can cast their vote either by post or electronically.

Workplace voting: where the member votes in person by placing their voting paper into a ballot box at a location in or near their workplace. However, this will be restricted to industrial action ballots only and will require employer consent.

In respect of all statutory industrial action ballots the RCN will decide which voting method to use.

E. Ballot result

As soon as reasonably practicable the RCN must publish the result of the ballot. Members must be informed of:

(a) the numbers entitled to vote

(b) the total number of votes cast

(c) the number of individuals who answered Yes to each question

(d) the number of individuals who answered No to each question

(e) the number of spoilt papers

(f) whether the number of votes cast is at least 50% of those entitled to vote.

The RCN must also as soon as reasonably practicable, inform the employer of the result of the ballot in the same terms as the membership. Where several employers are involved, the RCN must inform each of them, and industrial action is to be regarded as having the 'support of a ballot' only in relation to those employers who have been informed.

The Independent Scrutineer must also issue a report on the ballot.

The ballot outcome will remain effective for 12 months. The industrial action must begin and end within that period.

6. Call for industrial action

Only following the statutory ballot, and if the necessary threshold has been met, can the call to take industrial action be made by the RCN Chief Executive & General Secretary in accordance with section 17 of the RCN Code of Practice on Industrial Action included at **Annex A**.

It is an individual choice whether members accept the call to take industrial action, but the success of any action will only increase if it is supported by the full force of the membership.

A. Notice to employer of industrial action

Following the call for industrial action, the RCN must give the employer or employers formal notice before commencing action.

A relevant notice in writing must contain the following information:

(a) the total number of the affected employees, a list of the categories of employee to which the affected employees concerned belong, a list of the workplaces at which the affected employees work, and the number of affected employees who work at each workplace, together with an explanation of how those numbers were arrived at.

(b) the RCN must inform the employer or employers whether the action is continuous or discontinuous and if it is continuous, the intended date the action is to begin or if it is discontinuous, the intended dates when the action will take place

(c) the information supplied must be as accurate as reasonably practicable considering the information in the RCN's possession at the time the information is compiled.

Any relevant notice will be drafted by the RCN Legal Services department and must be supplied 10 days before industrial action commences.



7. Organising industrial action

Prior to industrial action commencing, operational groups need to be set up to organise the action; a vital role in ensuring the success of the action.

A. Industrial Dispute/Strike Committees

Locally-based Industrial Dispute/Strike Committees should be formed in each place of work, or area of work within a workplace, where action is intended to take place.

The committees should ideally have the following members: RCN officer, RCN steward or elected branch official, a member who is representative of the area or type of work where the action is taking place, a member who works in management and a designated individual to liaise with the employer.

The core functions of this committee include:

(a) to engage a representative spread of members within the workplace to form the committee

(b) to notify the employer, as soon as possible, of the names of its members

(c) to work with nominated RCN staff and liaise with local management in relation to derogations from industrial action. Further information on derogations is set out below

(d) to devise a rota of committee members to provide cover for the duration of the action. The rota and contact details of the committee members must be made available to all members in dispute in the workplace, and to the relevant local management and RCN staff

(e) the committee must devise and manage picket duty rotas

(f) the committee needs to agree contingency plans to deal with unforeseen emergencies in the workplace that align with the employer's business continuity and emergency plans

(g) to liaise with other unions/workers as required to co-ordinate action

(h) to secure, from the employer, the use of an office in a location easily accessible to members, complete with an internal and external telephone line and internet access for the duration of the dispute

(i) to agree and set up methods of communication with members in the workplace

(j) to effectively manage the action locally for the duration of the action referring major issues to the Industrial/Strike Action Dispute Oversight Committee as appropriate. Members locally will take instructions from the committee

(k) to schedule and attend daily meetings with management during the action

(l) seek reassurance and evidence from the employer that its service will be reduced proportionately in line with available staff. However, it is an employer's responsibility to provide safe staffing levels to sustain its service requirements during any period of industrial action

(m) take immediate action to stop any unofficial industrial action or secondary action.

Industrial Dispute/Strike Committees report to and take instructions from the country or regional Industrial Dispute/Strike Oversight Committee.

B. Industrial Dispute/Strike Oversight Committee

The Industrial Dispute/Strike Oversight Committee includes members of the country or regional board subcommittees on trade union issues. If a subcommittee is not already in existence the country or regional board will form one.

The role of the Oversight Committee is to supervise the various local industrial dispute/ strike committees and to report to their country and regional boards regarding the progress of the action. The Oversight Committee should also refer any requests for derogations to the country or regional board.

This committee is also responsible for reporting major incidents such as unofficial action and what steps it believes should be taken to address those matters.

C. Country or regional boards

The country or regional board delegates authority of the operational supervision of industrial action to the Industrial Dispute/Strike Oversight Committee.

The country or regional board will receive daily reports from the Oversight Committee and approve derogations as necessary.

The country or regional board also oversee any negotiations regarding resolution of the trade dispute that underlies the industrial action. In turn, they will make recommendations to the Trade Union Committee regarding those matters.

D. Country or regional operational team

This team compromises staff who will work in conjunction with the Industrial Dispute/Strike Committees, the Oversight Committee and the country or regional board to provide advice and assistance and respond to major incidents.

It will include the country or regional director, the senior lead for employment relations, the senior lead for professional nursing practice and the head of legal services (Employment).

This team will report directly to the Chief Executive & General Secretary on the action.

E. Governance oversight

The Chief Executive & General Secretary is ultimately responsible for the management and delivery of industrial action, and they will report to RCN Council. The Trade Union Committee also reports to RCN Council, and it makes recommendations regarding major incidents, ongoing negotiations and the suspension or resolution of any dispute.

The governance oversight of industrial action organisation is crucial to ensure the RCN is complying with its statutory requirements whilst also harnessing its industrial strength to maximise impact.

8. Participating in industrial action

Members need to be aware of the following matters to ensure they can make an informed choice to participate in industrial action.

A. Nursing and Midwifery Council (NMC)

For those members who are registrants, the NMC published a statement on industrial action on the 26 November 2019 and this was updated on 30 August 2022:

> "Like many other professions, nurses, midwives and nursing associates have the right to take part in lawful industrial action, including strike action.
>
> For those on our register taking part in such action, the standards and behaviours set out in the Code continue to apply.
>
> During industrial action, employers of health and care services have an important role to play in planning and preparing for how people's individual needs can be responded to and their continuity of care maintained.
>
> For nursing and midwifery professionals not taking part in industrial action, we recognise that they may need to use their professional judgment to assess risk and find the best way to provide care for patients and people who use services.
>
> Our regulatory standards continue to apply in all situations and we hope they can support professionals by highlighting the need to work with colleagues to keep patients and people safe, to practise in line with the best available evidence, to recognise and work within the limits of their competence, and to have appropriate indemnity arrangements relevant to their scope of practice."

Therefore, although the NMC recognises that registrants are entitled to participate in lawful industrial action, the Code will continue to apply, and the following sections will be of relevance.

(a) Act in the best interests of people at all times (section 4).

(b) Preserve safety (section 13).

(c) Always offer help if an emergency arises in your practice setting or anywhere else (section 15).

(d) Act without delay if you believe that there is a risk to patient safety or public protection (section 16).

(e) Be aware of, and reduce as far as possible, any potential for harm associated with your practice (section 19).

(f) Uphold the reputation of your profession at all times (section 20).

Industrial action in principle should not amount to a breach of the Code but other actions which amount to misconduct whilst the action is ongoing could amount to a breach. The RCN will not ask members to act outside the Code whilst participating in industrial action, but members need to be mindful of their individual responsibility to act within the Code.

B. Preservation of life and limb

The Trade Union and Labour Relations (Consolidation) Act 1992 contains the rules on industrial action, and it includes a provision making it a criminal offence for any person to deliberately break their contract of employment by taking industrial action knowing, or having reasonable cause to believe, that the probable consequences of doing so, will endanger human life or cause serious bodily injury.

Therefore, any RCN industrial action will follow the life-preserving care model. Life-preserving services include:

(a) emergency intervention for the preservation of life or for the prevention of permanent disability

(b) care required for therapeutic services without which life would be jeopardised or permanent disability would occur

(c) urgent diagnostic procedures and assessment required to obtain information on potentially life-threatening conditions or conditions that could potentially lead to permanent disability.

To maintain these services in workplaces, service provision should be that supplied on Christmas Day.

The RCN is committed to ensuring industrial action has, at its core, the preservation of patient safety.

C. Derogations

Another form of maintaining patient safety and safe staffing levels is by way of derogations. This is an exemption provided to a member or service from taking part in industrial action.

Generally, the employer will request derogations, and those requests will be discussed with the Industrial Dispute/Strike Committee locally. The committee will seek approval from the country or regional board via the Oversight Committee before agreeing any derogations.

For industrial action to be effective, derogations beyond the life preserving care model should be avoided but it will be entirely dependent on the individual workplace circumstances on any day of industrial action.

Derogations can however be extended to members who would suffer long-term financial loss because of taking industrial action. Examples include:

(a) pregnant women

(b) members whose state benefits would be affected

(c) members in their last year of pensionable service.

Employers are ultimately responsible for maintaining the safe provision of their services during all times including during industrial action.

D. Breach of contract

Any member taking part in industrial action will invariably be breaching their contract of employment.

Action short of strike is unlikely to amount to an express breach of contract but it could amount to an implied breach. Although a worker cannot be expected to do any more than contracted, action short of strike involves the withdrawal of goodwill and that can amount to an implied breach of contract if done with the intention of being deliberately obstructive.

Strike action is an express breach of contract as the worker deliberately refuses to attend work when required to do so.

In theory, an employer could sue its workers for damages in respect of the breach of contract caused by industrial action but in practice, it is very unlikely to be worth it bearing in mind the legal costs associated with breach of contract claims in the civil court.

E. Disciplinary action

An employer might also consider taking disciplinary action against a member for taking industrial action and, unfortunately, there is an absence of protection against such detrimental action or victimisation.

However, most employers recognise that taking disciplinary action would be counterproductive in relation to protected industrial action as there is a clear understanding of why the breach of contract has taken place and it would be very difficult for an employer to initiate disciplinary proceedings against large numbers of staff.

F. Unfair dismissal

Members are afforded protection against unfair dismissal in relation to protected industrial action. It is automatically unfair to dismiss a member for taking part in industrial action, whatever the length of the action.

Furthermore, from 30 October 2026, workers taking protected industrial action cannot be subjected to detriment if the sole or main purpose of preventing or deterring them from taking protected industrial action, or of penalising them for doing so.

G. Continuity of service

Any period when a member participates in strike action does not count towards continuous employment even though continuity of employment will not be broken. Continuity of service will be paused when strike action is taken. Therefore, days of strike action will not count towards any relevant qualifying periods necessary to acquire statutory employment rights.

This will also impact on days of pensionable service and will not count, nor will pension contributions be made by employers for days on strike.

Participation in strike action may also have an impact on any contractual or statutory entitlement to paid leave if calculated based on earnings during a period when strike action was taken.

H. Pay

If a member participates in strike action and deliberately withdraws labour, an employer is not obliged to pay them for the period when they did not work.

The courts have decided that when determining how much pay the employer can withhold because of strike action, the correct test is to consider what pay the member would have received had they been at work. Therefore, deductions following strike action should be calculated based on 1/365th of a member's annual pay.

Action short of strike may also have an impact on member's pay if the employer considers this is partial performance of the employment contract. Employers expect that contracts of employment are performed in full and even if an employer accepts partial performance, this may result in a deduction from pay on the basis the member is only entitled to be paid for the work performed.

If the action short of strike does amount to partial performance and the employer refuses to accept that, there is authority the employer may be entitled to pay nothing even if some work is performed

I. Strike benefit

To mitigate any loss of pay, the RCN has a strike benefit policy which provides a discretionary daily payment to eligible members after the second day of strike action.

A member will be entitled to strike benefit after they have participated in two complete days of strike action. This benefit is not intended to replace members' daily earnings but is a supportive contribution to reduce the impact of lost pay due to strike action.

The eligibility requirements for strike benefit and how to apply are set out in the policy included at **Annex C**.

9. Resolving industrial action

As outlined above, industrial action presents potential difficulties for members, patients, and society in general. Therefore, and whenever possible, the RCN will attempt to resolve trade disputes once industrial action has commenced.

Acas can be used to conciliate collective trade disputes even whilst industrial action is ongoing. Acas can also arrange arbitration if both parties to the dispute are agreeable.

A. Suspension of industrial action

The RCN is at liberty to suspend industrial action if negotiations are ongoing and settlement proposals need to be considered.

Any request to suspend industrial action must be made by the country or regional board to the Trade Union Committee who will make a recommendation to RCN Council.

The Chief Executive & General Secretary who called the action will formally suspend it if suspension is authorised by RCN Council.



B. Agreement

If proposals are put forward to resolve the dispute, any framework agreement setting out those terms will be provided to the members involved in the dispute and they will be asked to vote on any such proposals by way of a consultative ballot.

The country or regional board will seek a recommendation from the Trade Union Committee whether to advise members to accept or reject those proposals. The RCN may also remain neutral depending on the terms.

The Trade Union Committee will undertake an options appraisal of the proposals and make their recommendation to RCN Council.

RCN Council will decide whether to endorse the Trade Union Committee's proposal.

C. Repudiation (Calling off industrial action)

If the proposals to resolve the dispute are accepted by the membership, this will be communicated to the employer via the usual negotiating mechanism by the country or board director.

Following acceptance, the Chief Executive & General Secretary will call off industrial action as soon as reasonably practicable.

Written notice of the repudiation will be given to:

(a) the country or regional board

(b) every member called to take industrial action, and

(c) the employer of every member taking industrial action. They will be informed of the fact and date of the repudiation.

The notice to members will contain the following statement:

> "Your union has repudiated the call (or calls) for industrial action to which this notice relates and will give no support to unofficial industrial action taken in response to it (or them). If you are dismissed while taking unofficial industrial action, you will have no right to complain of unfair dismissal."

Following the notice of repudiation, the Chief Executive & General Secretary, RCN Council, Trade Union Committee and the country or regional board must not behave in a manner which is inconsistent with the repudiation.

10. Glossary of terms

Acas
The Advisory, Conciliation and Arbitration Service.

Consultative Ballot
Members will be consulted on their views and asked to vote on certain issues, for example, on pay awards. This is a non-statutory ballot.

Independent Scrutineer
A qualified external company who oversees industrial action ballots.

Indicative Ballot
Members will be asked to vote and indicate whether they are prepared to take action. This is a non-statutory ballot.

JACS
Jersey Advisory & Conciliation Service (Acas equivalent in Jersey).

LRA
Labour Relations Agency (Acas equivalent in Northern Ireland).

Manx Industrial Relations Service
Acas equivalent on the Isle of Man.

Statutory Industrial Action Ballot
The formal ballot of members on taking industrial action. This is a statutory ballot.

11. Committee flowchart



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Annex A – RCN Code of Practice on Industrial Action

Standing Order 3 of the Rules of the Royal College of Nursing states:

Power to call industrial action

3.1 It is a fundamental principle of the College that its Members shall not act in any way which is detrimental to the wellbeing or interests of their patients or clients. Without prejudice to this fundamental principle, the Council is empowered to authorise action by Members in furtherance of an industrial dispute and to make regulations governing the procedure to be followed.

3.2 No industrial action shall be taken by any Member without the prior authorisation of the Council.

3.3 The Council will not authorise any form of industrial action unless satisfied that such form will not be detrimental to the wellbeing or interests of patients or clients.

3.4 The Council will ensure that any authorised industrial action complies with both the relevant trade union legislation in force at the time and with the RCN Code of Practice on Industrial Action.

3.5 The Council may delegate to a committee of the Council the power to make recommendations when, where and in what form industrial action may be taken by Members (subject always to the provisions of the above clauses). Such committee may be convened at the request of the Chair of the Council.

Policy and process

The process for making the decision to ballot on industrial action is for RCN Council to determine. Once RCN Council has made a decision to ballot on industrial action then all balloting arrangements must comply with the statutory provisions. The process adopted by the RCN to date has been as follows.

1. Any dispute giving rise to a request to Council pursuant to Standing Order 3 must satisfy the statutory definition of the same.
2. Every effort must be made to resolve any dispute (a 'local dispute') with an employer at the lowest level possible (preferably by the staff and manager directly involved in the situation) and as speedily as possible.
3. Where the dispute is with the Secretary of State for Health or equivalent Ministers in the devolved countries (a 'national' dispute) the relevant national officers of the RCN will have advised the Chair of the relevant country or regional board and the RCN Chief Executive & General Secretary of the progress of any negotiations at a national level. They will advise the Chief Executive & General Secretary, Trade Union Committee and RCN Council as to why a national agreement has not been reached. Council will expect evidence that every effort has been made to achieve agreement.
4. If it is not possible to resolve the local dispute and local mechanisms are exhausted the members involved may seek a ballot for industrial action. RCN Council members for the relevant country or region must be informed and kept up to date with developments.

5. In the case of a national dispute it will be for the Trade Union Committee to ask RCN Council to approve a ballot on industrial action.
6. A meeting of the members involved in a local dispute should be convened. The purpose of the meeting shall be to test whether industrial action is the only option. The local RCN steward and an RCN officer will be in attendance. The local branch officers may also attend but should not vote unless directly involved in the dispute.
7. Only those in RCN membership and who are directly involved in the dispute may vote. A list of names and membership numbers of those present who are involved in the dispute should be taken and checked with membership records. This list will be required if an application to RCN Council is to be made to authorise industrial action.
8. At least five, but no more than 10, working days' notice of the meeting should be given. The purpose of the meeting will be to discuss the progress of the dispute and to consider whether an application to RCN Council for a ballot on industrial action would be appropriate. A vote, which may be on a show of hands or by secret ballot of those present, shall be taken to decide whether such an application should be made. For a request to Council for industrial action to succeed a two thirds majority is required.
9. The meeting should also consider what industrial action might be appropriate given the requirements of Standing Order 3.
10. If a two-thirds majority is achieved at the meeting in favour of applying to RCN Council for a ballot for industrial action, a meeting of the Country or Regional Board, with the relevant branch officers in attendance, must be held within five working days to discuss whether to proceed to make the application to RCN Council.
11. The meeting should explore whether all means of resolving the dispute have been exhausted; how effective the proposed action is likely to be; and to achieve a consensus that an application to RCN Council for a ballot should be made. An RCN full-time official may help facilitate the meeting and must also be in attendance throughout.
12. If it is agreed that the matter cannot be resolved locally and that it should be referred to RCN Council a pro-forma should be signed by the steward, branch officers and Board Chair present and sent immediately to the Chief Executive & General Secretary who, as Secretary to the RCN Council, will arrange a meeting of the Council with the relevant Board Chair or as otherwise provided, the Trade Union Committee within 10 working days.
13. If RCN Council is unable to meet then the Trade Union Committee is convened and will be joined by the relevant Board Chair, Council Member and Professional Nursing Committee Member from the Country/Region. The Trade Union Committee will recommend to RCN Council whether in their view members should be balloted on industrial action.

14. The meeting of the Council/Trade Union Committee will be attended by the Chief Executive & General Secretary or named deputy and appropriate staff officers. A Legal officer must be present. The Council/Trade Union Committee will consider the pro-forma. The signatories should also be invited to make written or oral representations to support their case if they so wish.
15. If the Trade Union Committee is convened and agrees to recommend to Council that the members should be balloted, Council should meet as soon as possible afterwards and in any case, within the next 10 working days, to consider the evidence put forward in support of industrial action. There is no right of appeal if the application is rejected. If authorisation is given, a ballot (organised by the Returning Officer) will then be conducted.
16. There must be no call by the RCN, for example any Council, Committee, or Board member, Branch or Forum committee member, RCN Representative (learning rep, safety rep or steward), or staff member, for members to take part in the proposed industrial action either before or during the ballot.
17. Following the outcome of the ballot any call for industrial action will be made by the Chief Executive & General Secretary.

The statutory balloting process

18. Once RCN Council makes a decision to ballot members on industrial action the balloting process has to conform to the statutory requirements. These are contained in the Department of Business, Energy and Industrial Strategy's Code of Practice for **Industrial Action Ballots and Notice to Employers**. The Code also covers arrangements following a ballot for industrial action.
19. The Code itself imposes no legal obligations and failure to observe it does not by itself render anyone liable to proceedings. But section 207 of the Trade Union and Labour Relations (Consolidation) 1992 Act says that any provisions of the Code are to be admissible in evidence and are to be taken into account in proceedings before any court where it considers them relevant. Essentially this means that the provisions of the Code should always be adhered to. The Code was updated in 2017 to take account of the provisions of the Trade Union Act 2016.
20. A breach of the RCN's own rules or failure to adhere to the statutory requirements and Code renders the union open to legal challenge from our members, employers or members of the public.

Updated and approved by RCN Council – 28 November 2018

Annex B – RCN guide on picketing

1. What is picketing?

It is lawful for a member in contemplation or furtherance of a trade dispute to attend at, or near, their place of work for the purposes of obtaining or communicating information, or peacefully persuading any person to abstain from work.

An RCN official can also attend at, or near, the place of work of a member they are accompanying and who they represent to achieve the same objective.

A picket line comprises members who would otherwise be at work but who are taking part in strike action instead. Peaceful picketing is a lawful activity in the UK and your employer cannot prevent you from taking part, nor is it a breach of the NMC Code.

2. Can members picket during action short of strike action?

Picketing by members during periods of industrial action short of a strike is permitted. However, it may only be carried out by members who are not scheduled to work and can only facilitate the provision of information. Picketing during action short of a strike cannot be used to persuade others to withdraw their labour.

3. Where can members picket?

Members can only picket at their place of work. If there is no picket line at your workplace you are not permitted to picket at another workplace, even if it is another site of your employer unless you also work at that site.

4. Can members picket if they have not been balloted on industrial action?

No. If you have not been balloted you are either not employed by the employer whom the RCN is in dispute with, or you are not affected by the dispute in question.

If you fall into either category, you cannot participate in a picket line. Members can however visit picket lines, when not on duty, to provide support to those members who are picketing.

5. How many members can be present on a picket line?

Two Codes of Practice on picketing are available. One applies in England, Scotland and Wales and the other applies in Northern Ireland.

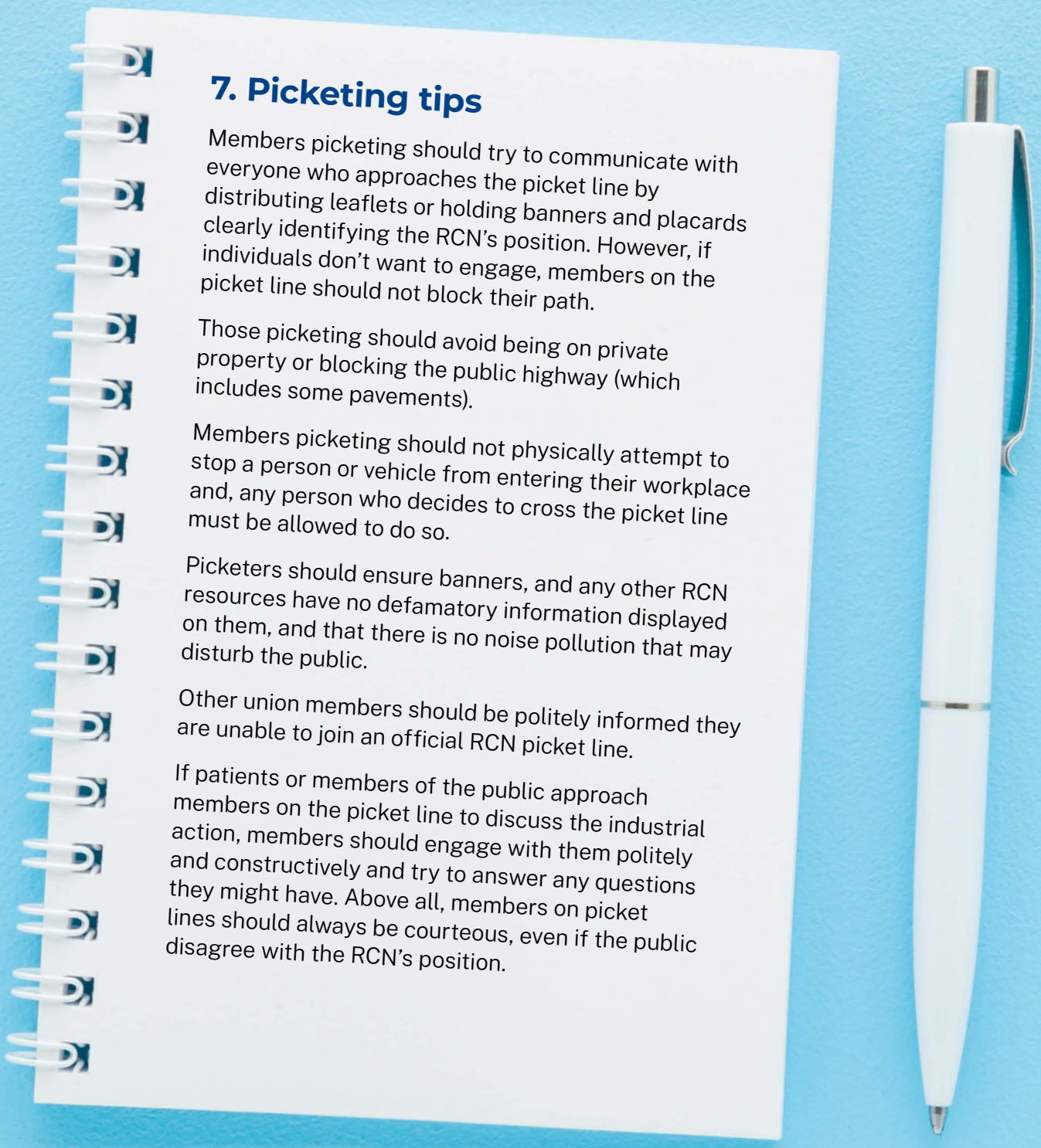
The Codes of Practice recommend that there should be no more than six people on a picket line at any one time. Therefore, local Industrial Dispute/Strike Committees will devise a rolling rota to ensure all members who wish to picket have an opportunity to do so, in line with the guidance.

6. Why does picketing have to be peaceful?

Picketing is only lawful so far as it is peaceful. If members engage in activity other than peaceful picketing, that could result in a breach of criminal law.

There are a variety of criminal offences that may be committed by members involved in picketing who do not adhere to the requirement to be peaceful: unlawful use of force, threat or violence, harassment or other threatening behaviour, willful obstruction of traffic, possession of an offensive weapon, damage to property and breach of the peace. If any crime is committed the statutory immunity for peaceful picketing does not provide members with protection. Therefore, it is important that members comply with instructions given by any RCN-appointed picket supervisor or other designated RCN representative.

Members should not be surprised if the police visit their picket line. Members should always be polite and reassure the police they are present for peaceful picketing only. Members should also cooperate with any requests to keep the area free from obstruction.



7. Picketing tips

Members picketing should try to communicate with everyone who approaches the picket line by distributing leaflets or holding banners and placards clearly identifying the RCN's position. However, if individuals don't want to engage, members on the picket line should not block their path.

Those picketing should avoid being on private property or blocking the public highway (which includes some pavements).

Members picketing should not physically attempt to stop a person or vehicle from entering their workplace and, any person who decides to cross the picket line must be allowed to do so.

Picketers should ensure banners, and any other RCN resources have no defamatory information displayed on them, and that there is no noise pollution that may disturb the public.

Other union members should be politely informed they are unable to join an official RCN picket line.

If patients or members of the public approach members on the picket line to discuss the industrial action, members should engage with them politely and constructively and try to answer any questions they might have. Above all, members on picket lines should always be courteous, even if the public disagree with the RCN's position.

Annex C – RCN strike benefit policy

Introduction

1. Industrial action is always the last resort, bringing with it – to some degree – loss of earnings and job instability. However, it is a legitimate strategy when other approaches have been exhausted, and the RCN is committed to supporting its members to exercise their right to take lawful industrial action when required.
2. An employer is entitled to withhold payment for each day of strike action from those deemed to be on strike. As such the RCN will make strike benefit available to those eligible members who require it. However, this benefit is entirely discretionary, and the RCN reserves the right to amend or withdraw it in accordance with this policy and **Appendix A** on page 24.
3. Strike benefit is not intended to replace a member's expected daily earnings but is a supportive contribution to reduce the impact of losing pay due to taking part in strike action.

Basic rules

4. Strike benefit will only be paid to those members entitled to receive it in respect of authorised action once the action has taken place.
5. Branches may not make separate arrangements for the payment of dispute benefit.
6. The Inland Revenue does not regard strike payments as taxable earnings, so long as it does not exceed normal take-home pay. Any benefits, such as child benefit, should not be affected by strike pay. However, any income-related payments will be affected as strike pay will be treated as income for these purposes, as such, these benefit/social payments may be affected.

Rate of strike benefit

7. The rate of strike benefit is set out in detail in **Appendix A**.
8. **Appendix A** will be reviewed periodically by the Trade Union Committee.
9. The Committee has the right to recommend to RCN Council to pay a higher amount – up to full take home pay – depending on the circumstances of the dispute. Full take home pay can only be granted in exceptional cases.
10. On very rare occasions, employers reduce annual leave entitlements pro rata to the length of the dispute. The member may make an application for payment for the lost annual leave, but only in disputes where full take home pay has been agreed.
11. The Committee also has the right to pay a lesser amount than standard strike benefit or no strike benefit at all when a large action would exhaust the industrial action fund.

Qualification for strike benefit

12. Members will be eligible to receive strike benefit after they have completed two days of strike action. A day is defined as 7.5 or more hours for full-time staff, and for part-time staff, the member's contractual rostered hours for the day strike action is called.
13. If a member goes on strike for more than 7.5 hours in one 24-hour period they will only be entitled to receive one day's strike benefit payable from day two of strike action.
14. If a member who works full-time goes on strike for fewer than 15 hours (for example, two x 7.5-hour days), strike benefit will only be payable upon completion of episodes of strike action that accumulate to 15 hours or more in duration, within a period of three months. Further strike benefit will apply when further episodes of strike action total 15 hours or more.
15. If a member who works part-time goes on strike for fewer than their contractual rostered hours for that day, strike benefit will only be payable upon completion of episodes of strike action that accumulate to their contractual rostered hours for the days in question, within a period of three months. Further strike benefit will apply when further episodes of strike action total their contractual rostered hours.
16. Days on strike can only be added together for the same dispute. RCN Council will, on the recommendation of the Trade Union Committee, make the final decision whether strike benefit should be paid.
17. The following RCN members will be eligible to receive strike benefit if they satisfy the criteria in paragraphs 12 to 15 above and:

(a) are assigned to work or to provide emergency cover and will not be paid by the employer for all or part of the strike day

(b) are scheduled to work, because of their roster, on a strike day and will have pay deducted by their employer

(c) are not absent on any form of leave during industrial action

(d) are not student members, unless they are rostered to work as a nursing support worker on the day of strike action

(e) are not retired from all employment

(f) are up to date in their membership subscriptions in the correct category

(g) are taking lawful authorised industrial action.

Payment of strike benefit

18. Strike benefit will be managed centrally by RCN membership services who will verify membership and process payments.
19. An individual's participation in strike action will be confirmed by the country/regional/Board office (this will be based on the ballot lists).
20. Application forms will be sent to members. Application forms will also be available on the RCN website.
21. Payment can be made when an individual's membership and participation in industrial action is confirmed.
22. Members will be required to evidence their loss by submitting to RCN membership services a wage slip stating a deduction from salary by the employer of 15 hours or more on the basis of strike action.
23. Members who work part time will need to also provide evidence of their contractual rostered working hours for the day(s) in question if less than 15 hours.

Membership Support Services

24. As an RCN member you can get free confidential advice and support through our Member Support Services. This includes a welfare service which provides expert support and advice on benefits, tax credits, debt and housing, peer support on health and other issues, counselling and advice and support if you are experiencing circumstances which impact on your finances. To make an appointment with the team, call 0345 772 6100.

Appendix A to strike benefit policy

Rate of strike benefit:

1. The standard strike benefit is £45 per day, payable entirely at the RCN's discretion.
2. The standard daily rate of strike benefit shall be reviewed annually by the Trade Union Committee and any necessary recommendations made to RCN Council.
3. In instances where insufficient funds are available in the strike benefit fund, the Trade Union Committee shall have the power to recommend to RCN Council not to pay strike benefit, or to pay at a lower rate.
4. The Trade Union Committee may recommend to RCN Council to pay strike benefit above the level of national strike benefit rate in exceptional circumstances.

Policy approved by Council.

Annex D – Key statutory differences in the UK

Introduction

The RCN member guide on industrial action refers to the statutory requirements in England and Scotland where the law is most restrictive.

The processes outlined in the guide are to be adopted in all countries of the UK and its Crown dependencies but where the statutory requirements differ, those differences have been identified for members below and they must be complied with.

Industrial action is legally complex and country and regional boards should always seek legal advice from the RCN Legal Services department to clarify the position in their jurisdiction.

Guernsey

There is no legislation governing industrial action in Guernsey and as such there is no protection from unfair dismissal if members are dismissed for participating in industrial action.

Isle of Man

Industrial Action on the Isle of Man is governed by the Trade Disputes Act 1985 and Trade Unions Act 1991.

There are the following key differences to the position in England and Scotland:

- There is no requirement to meet the thresholds as set out in the Trade Union Act 2016 as it is not in force on the Isle of Man.
- Notice of ballot must be provided to the employer and the Manx Industrial Relations Officer seven days before.
- Outcome of the ballot must be provided to the members, the employer and the Manx Industrial Relations Officer and does not require the Trade Union Act 2016 threshold information.
- Notice of Industrial Action must be sent to the employer and the Manx Industrial Relations Officer seven days before.
- The ballot ceases to be effective if no action is taken within five weeks of the ballot result or six weeks with the agreement of the Manx Industrial Relations Officer.
- There are specific provisions in respect of ballots in relation to essential services. The Council of Ministers may direct the Appointments Commission establish a Court of Inquiry in relation to the dispute who will make recommendations and a decision.

Jersey

Industrial Action in Jersey is governed by the Employment Relations (Jersey) Law 2007 and the Code of Practice on Balloting and Conduct in Employment Disputes.

There are the following key differences to the position in England and Scotland:

- There is no requirement to meet the thresholds as set out in the Trade Union Act 2016 as it is not in force in Jersey.
- The Act and Code make references to employment disputes rather than trade disputes.
- A ballot can take place in the workplace if the Independent Scrutineer believes employees will not be intimidated into voting a particular way. If so, the employer must provide appropriate facilities and ensure that employees are given a reasonable opportunity to vote without loss of pay.
- The Independent Scrutineer may agree a combination of workplace and postal voting.
- Outcome of the ballot must be provided to the members, the employer, and does not require the Trade Union Act 2016 threshold information.
- The ballot ceases to be effective if no action is taken within three months.
- Notice of Industrial Action must be sent to the employer seven days before.
- Where a particular service is essential to the wellbeing of the community, it would be unreasonable for the trade union to fail to reach an agreement with the employer that action will not be taken by key personnel in, for example, the emergency services, utilities and health sector. This would apply if any action would seriously interrupt such a service, endangering the life, personal safety or health of the whole or part of the population; or where the extent and duration of the action might be such as to result in an acute national crisis endangering the normal living conditions of the population; and in services of fundamental importance.
- An agreement should define a minimum service (for example, to ensure that service users' basic needs are met, or that facilities operate safely, or without interruption) and provide for a formal, rapid and impartial dispute resolution mechanism in the event of a dispute arising which cannot be resolved through negotiation. This may include the use of conciliation, mediation, or arbitration services, including the involvement of Jersey Advisory and Conciliation Service and the Jersey Employment Tribunal.
- Where such an agreement is in place, it will be unreasonable for the union to call for action that would be in breach of the agreement.
- If, prior to an agreement being reached, action is called which would seriously interrupt a service, endangering the life, personal safety or health of the whole or part of the population, notice should be given in writing and sent to the employer so that it is received at least 20 days before the action commences.

Northern Ireland

Industrial Action in Northern Ireland is governed by Part VIII Trade Union and Labour Relations (Northern Ireland) Order 1995.

There are the following key differences to the position in England and Scotland:

- There is no requirement to meet the thresholds as set out in the Trade Union Act 2016 as it is not in force in Northern Ireland.
- The outcome of the ballot notification to members and employers therefore does not require the Trade Union Act 2016 threshold information.
- The period of notice required for employers of Industrial Action is seven days.
- The ballot ceases to be effective if no action is taken within 28 days of the ballot result or eight weeks with the agreement of the employer.
- There is no formal expiry date on an industrial action ballot provided action is taken within the time frames outlined above.

Wales

The Trade Union (Wales) Act 2017 applies to the devolved Welsh public bodies and to Trade Unions in public services delivered by devolved Welsh public bodies.

Conclusion

This annex will be updated if the statutory requirements in any of the above jurisdictions are amended.

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The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies

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