



Department
of Health &
Social Care

MSLs in event of strike action: hospital service in England, Scotland and Wales

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The PDF version of the survey is for reference only. Please [respond to the consultation online](#).

Note: the questions in the online survey are not numbered.

For a PDF version of the consultation document, go to the [consultation document](#), select 'Print the page' and Save to PDF.

Introduction

The Department of Health and Social Care (DHSC) is seeking views to inform decisions on the introduction of regulations on minimum service levels (MSLs) in England, Scotland, and Wales, to protect patient safety in key hospital services during strike action.

The UK Government has already consulted on the application of minimum service levels for other sectors. In health, we want to strike the right balance between the ability of workers to strike and the protection of life and health. Our proposal is that most essential and time-critical hospital services should be covered by MSL regulations. This consultation will help to inform decisions on whether hospital services should be covered and, if so, which hospital services, the appropriate minimum service levels required, and whether any health services outside hospitals should be included.

The Strikes (Minimum Service Levels) Act 2023 applies to England, Scotland and Wales. The act does not apply to Northern Ireland.

The consultation period will run until 11:59pm on 14 November 2023.

Email - contacting you

As part of this survey there are a few reasons we may require your email address:

- if you need to contact us about amending or deleting your response - the only way we can verify that it is your response is via your email address
- if you didn't have time to finish the survey, we can send you a reminder before it closes.

If you are responding on behalf of your organisation, please provide your organisational email address. Your email address will not be shared with anyone outside of the department.

Are you happy to share your email address with the Department of Health and Social Care?

- Yes
- No

What is your email address? (optional)

Your contact details will not be shared with anyone outside the department

About you

1. In what capacity are you responding to this survey?
 - An individual sharing my personal views and experiences
 - An individual sharing my professional views
 - On behalf of an organisation

If you're answering as an individual sharing your personal views and experiences or an individual sharing your professional views, please answer these questions

2. Where do you live in the UK? (optional)
 - England
 - Scotland
 - Wales
 - Northern Ireland
 - I live outside the UK
 - Prefer not to say
3. Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more? (optional)

This is about health conditions, illnesses or impairments you may have. Consider conditions that always affect you and those that flare up from time to time. These may include, for example, sensory conditions, developmental conditions or learning impairments.

- Yes
 - No
 - Prefer not to say
4. Do any of your conditions or illnesses reduce your ability to carry out day-to-day activities? (optional)

This is about whether your health condition or illness currently affects your ability to carry out day-to-day activities.

- Yes, a lot
- Yes, a little
- Not at all

If you're answering as an individual sharing your professional views, please answer these questions

5. Were you employed as a member of staff during any periods of strike action?

- Yes
- No

6. Which of the following best describes your area of work?

- Hospital-based health services
- Other health services
- Social care
- Other area
- Prefer not to say

6. Please specify your work. (optional)

- Allied health
- professionals and support staff
- Healthcare scientists, scientific and technical and support staff
- Ambulance (operational)
- Medical and dental
- Registered nursing and healthcare assistants
- Midwives

- Non-clinical including support services, management or leadership role
- Social care
- Prefer not to say
- Other

If you're answering on behalf an organisation, please answer these questions

7. Where are your services based? (optional) Select all that apply.

- North East England
- North West England
- Yorkshire and the Humber
- East of England
- East Midlands
- West Midlands
- South East England
- South West England
- London
- Prefer not to say
- Scotland
- Wales
- Northern Ireland
- Not applicable

8. Please give the name of the organisation you represent. (optional)

9. What is your organisation?

- Trade union
- Membership organisation
- NHS trust or health board
- Integrated care board
- Independent sector provider, for example charity, social enterprise, private
- Local government
- Prefer not to say
- Other

Hospital-based services - minimum service level

During strike action employers negotiate with trade unions to seek agreement to provide a certain level of cover for priority health services to protect life and health. These agreements, known as 'derogations', mean that certain staff members or groups of staff are exempted from strike action in order to provide the cover needed to care for patients at risk of harm. Derogations are entirely dependent on goodwill from unions and staff. During some strikes, derogations have been agreed in good time, but in others, unions have not agreed them until very late or have not agreed them in advance of the strike commencing, which has particularly affected hospital services.

10. To what extent do you agree or disagree that current arrangements are sufficient in providing cover for essential services? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

We are proposing to introduce minimum service levels as a further measure to ensure continuity of access to essential services during strike action. The proposal is that hospitals will treat people as they would on a non-strike day who require urgent or emergency treatment in hospital during the period of industrial action and people who are receiving hospital care and are not yet well enough or able to be discharged.

11. To what extent do you agree or disagree with the proposal to introduce minimum service levels during strike action to achieve this aim? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree

- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 500 words.

12. To what extent do you agree or disagree with the proposal to introduce minimum service levels during strike action for inpatients already receiving hospital care? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

13. To what extent do you agree or disagree with the proposal to introduce minimum service levels during strike action for existing patients requiring urgent elective treatment? (optional)

For example priority 1 or priority 2 elective surgery lists, dialysis, elective caesarean, or induction of labour.

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

14. To what extent do you agree or disagree with the proposal to introduce minimum service levels during strike action for existing patients needing emergency, critical or urgent assessments, diagnostics, or treatment? (optional)

This does not include routine procedures like knee or hip replacements.

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

15. To what extent do you agree or disagree with the proposal to introduce minimum service levels during strike action for new patients presenting to the hospital requiring unplanned assessments, diagnostics and/or treatment? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

We propose that hospitals will treat people as they would on a non-strike day who require urgent or emergency treatment in hospital during the period of industrial action, and people who are receiving hospital care and are not yet well enough or able to be discharged. As such, the minimum service level that is required to ensure this treatment is delivered to patients in hospitals during strike action should be informed by expert clinical judgement, meaning the following sets of patients could expect to be treated as they would on a non-strike day:

- inpatients already receiving hospital care
- existing patients requiring urgent elective treatment that would normally be delivered during the period of industrial action (for example: people on priority 1 or priority 2)

elective surgery lists (surgery that is required within 72 hours for priority 1, or 4 weeks for priority 2), people requiring dialysis, transplant patients where a potential donor match is identified, elective caesarean or induction of labour)

- existing patients who could or will need emergency, critical or urgent assessment, diagnostics or treatment in hospital, (for example cancer or cardiac diagnostics and treatment, but not for example routine knee or hip replacement)
- new patients presenting to hospital that require unplanned assessment, diagnostics and/or treatment in hospital, (for example people presenting to emergency department, people in active labour)

16. To what extent do you agree or disagree with allowing local clinicians to determine whether their patients fall under the categories for the minimum service levels (MSL) outlined in the principles listed above during strike action? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

NHS hospitals in Great Britain are operated by NHS trusts or health boards, who may sub-contract some of their work to other organisations. This may include cleaning or other support services being contracted to a private company; third-sector providers, such as social enterprises or charities, delivering some services; or other NHS organisations delivering services that support hospital treatments, including blood and transplant services which facilitate treatment requiring blood platelets or donated organs.

This means NHS trusts or health boards may not employ all the staff who are involved in the delivery of essential care provided by hospitals. In writing the MSL regulations the Secretary of State may specify the type of organisations the MSL applies to. This could limit the types of employers who are able to issue a work notice to ensure the continuity of essential hospital services during strike action.

17. If MSL regulations are introduced for hospital services, which types of employers do you think should be specified to follow these regulations during strike action? (optional)

- All organisations involved in delivering NHS hospital services including NHS trusts and health boards, other NHS organisations, private companies and third sector organisations such as charities or social enterprises.
- All NHS-affiliated organisations contracted to deliver hospital services
- Only NHS trusts and health boards
- No employers should be specified by MSL regulations
- Don't know
- Prefer not to say

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

We are proposing to introduce a minimum service level that would apply only to hospital care. This measure would not include health services available in the community such as pharmacies, GP surgeries and community health teams.

18. To what extent do you agree or disagree that MSLs should not include community-based health services? (optional)

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

19. Do you think there is an alternative option to introducing MSLs in hospitals, to ensure continuity of access to essential services and protect patients from risks to life and life-changing harm during strike action? (optional)

- Yes
- No

- Don't know

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

Your experience

If you're answering as an individual sharing your personal views and experiences, please answer this question

20. Were you, or anyone you know, in hospital or needed to go to hospital for any health-related reason on a day when you were aware that strike action was taking place?

- Yes
- No
- Don't know

If you're answering on behalf of an NHS trust or health board, please answer this question

21. Does your NHS trust or health board run a hospital that was affected by strike action since December 2022? (optional)

- Yes
- No

Impact of strike action for your trust or health board

If your trust or health board did run a hospital that was affected by strike action since December 2022, please answer these questions

Acknowledging that precise figures may be unavailable, please provide your best estimate for the following questions.

22. Please provide an estimate of the total number of days that the hospital or hospitals you run were affected by strike action? Select the closest range. (optional)

- 0 to 10
- 11 to 20
- 21 to 30
- 31 to 40
- 41 to 50
- Over 50 days
- Don't know
- Prefer not to say

23. How many hours did your NHS trust or health board managers and clinicians collectively spend preparing for the most recent period of strike action affecting your organisation? (optional) Select the closest range.

- Under 25 hours
- 26 to 50 hours
- 51 to 75 hours
- 76 to 100 hours
- Over 100 hours
- Don't know
- Prefer not to say

24. If you requested a derogation from a union to mitigate the impact of the most recent period of strike action, how many hours did NHS trust or health board managers and clinicians collectively spend on submitting the derogation request? (optional) Select the closest range.

- Under 25 hours
- 26 to 50 hours
- 51 to 75 hours
- 76 to 100 hours
- Over 100 hours
- Don't know
- Prefer not to say

25. How much do you estimate it cost your NHS trust or health board to continue to provide time-critical hospital services during the most recent period of strike action that affected your organisation? (optional)

This may include, but is not limited to, expenses such as overtime payments. Please provide your best estimate and specify the types of costs included in your calculation. Maximum 250 words.

26. Based on the hospital MSL proposal outlined in the consultation document on GOV.UK, how would you compare the time commitment required for implementing this proposal to that of how you currently prepare for industrial action? (optional)

- Less time-intensive than the time currently spent preparing for industrial action
- About the same as the time currently spent preparing for industrial action
- More time-intensive than the time currently spent preparing for industrial action
- Don't know

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

27. Do you anticipate incurring additional costs at the NHS trust or health board, either one-time or recurring, as a result of implementing a MSL for hospital-based services? (optional)

- Yes
- No
- Don't know
- Prefer not to say

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

Impact of strike action for your trade union

If you're answering on behalf of a trade union, please answer this question

28. Has your trade union called industrial action in any NHS hospital since December 2022?

- Yes
- No
- Don't know

If your trade union has called industrial action in any NHS hospital since December 2022, please answer these questions

29. Provide an estimate for the total number of hours spent by your trade union officials to work with local hospital managers and national authorities such as NHS England, to ensure essential health services remained available during the most recent strike action your union was involved in. (optional)

This includes but is not limited to discussions on special arrangements like derogations. Select the closest range.

- Under 25 hours
- 26 to 50 hours
- 51 to 75 hours
- 76 to 100 hours
- Over 100 hours
- Don't know
- Prefer not to say

30. Considering the proposal for a hospital MSL and the draft code of practice on reasonable steps trade unions should undertake, how do you anticipate the time commitment for your union officials to take these reasonable steps will compare to the

time currently spent working with NHS trusts or health boards in preparation for industrial action? (optional)

This includes but is not limited to discussions on special arrangements like derogations. Select the closest range.

- Less time-intensive than the time currently spent preparing for industrial action
- About the same as the time currently spent preparing for industrial action
- More time-intensive than the time currently spent preparing for industrial action
- Don't know

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

31. Do you anticipate that your trade union will incur new costs, either one-off or recurring, in implementing the reasonable steps as outlined in the draft code of practice? (optional)

- Yes
- No
- Don't know
- Prefer not to say

Please explain your position and provide any supporting evidence. (optional)
Maximum 250 words.

Impact of strike action in hospitals - individuals

If you were in hospital or knew someone in hospital during strike action, please answer this question

Because you said you were in hospital or know someone who was in hospital during strike action, this question asks you about how industrial action in the NHS has impacted on your health or the health of people that you know.

32. Do you think that industrial action since December 2022 has affected your health or the health of someone you know? (optional)

- Yes
- No
- Don't know

Please explain your answer. (optional)

33. If you have a personal experience, please do not provide any detail that could identify yourself or other people, such as your name. Maximum 300 words.

Impact of strike action in hospitals - member of staff

If you were employed as a member of staff during a period of strike action, please answer this question

Because you said you were employed as a member of staff during a period of strike action, this question asks you about how industrial action in the NHS impacted on people in your care while at work.

34. Do you think that industrial action since December 2022 affected the health of your patients? (optional)

- Yes
- No
- Don't know

Please explain your answer. (optional)

35. If you have a personal experience, please do not provide any detail that could identify yourself or other people, such as your name. Maximum 300 words.

If your organisation was impacted by strike action since December 2022, please answer this question

The following questions asks for your organisation's views on the impact of hospital strikes since December 2022 on patient health.

36. Which, if any, of the following patient categories do you think were affected by industrial action since December 2022? (optional)

- Patients with emergency and critical health needs
- Patients with other time-critical health needs, for example dialysis, cancer care, maternity services, neo-natal, cardiac
- Patients with non-emergency hospitalisations, for example medical wards, mental health in- patient care, diagnostics, discharge support, end of life care

Please explain your answer. (optional)

37. If you have a personal experience, please do not provide any detail that could identify yourself or other people, such as your name. Maximum 300 words.

Public sector equality duty (PSED)

38. Are there groups of people, such as (but not limited to) those with protected characteristics, who would benefit from the proposed introduction of minimum service levels in some or all hospital services? (optional)

- Yes
- No
- Don't know

Which groups do you think will benefit and why? (optional)

39. Are there groups of people, such as (but not limited to) those with protected characteristics, who would be negatively affected by the proposed introduction of minimum service levels in some or all hospital services? (optional)

- Yes
- No
- Don't know

40. Which particular groups might be negatively affected and why? (optional)

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