

**PUBLIC SERVICES DISPUTE – 30 NOVEMBER 2011****GUIDANCE ON THE EMPLOYER USE OF AGENCY  
LABOUR AND ARRANGEMENTS FOR  
EMERGENCY COVER**

You will be aware that many Unite members employed across our public services have successfully balloted for industrial action in connection with the ongoing dispute over imposed changes to their pension schemes.

**Following this vote, Unite is calling on all members employed by an employer where we have secured a YES vote and notified the employer of our intention to take strike action, to join with their colleagues from other public sector trade unions in sending a very clear message in support of your pensions on 30 November 2011.**

- **Industrial action will commence on Wednesday 30 November and will run from 00.01 concluding at midnight.**

**This is an official dispute.** It is supported by your union and the Trades Union Congress (TUC). We are working with the TUC's regional organisation and other unions taking action on the various protests, actions and other events in towns and cities across the United Kingdom.

**1. Use of Agency Labour**

The use of Agency labour to replace striking workers during industrial disputes is unlawful. Any such use is in direct breach of Regulation 7 of the Conduct of Employment Agencies Regulations 2003 and a breach of the Regulation can lead to the Agency Standards Inspectorate imposing a fine of £5,000 and the removal of an operating licence for up to 10 years.

The Regulations are explicit: Regulation 7 is clear that it is an offence for an employment business to supply an Agency worker specifically to carry out the work of any worker involved in official strike action;

**Restriction on providing work-seekers in industrial disputes**

**7.—(1)** Subject to paragraph (2) an employment business shall not introduce or supply a work-seeker to a hirer to perform—

(a) the duties normally performed by a worker who is taking part in a strike or other industrial action (“the first worker”), or

(b) the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker, **unless in either case the employment business does not know, and has no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.**

(2) Paragraph (1) shall not apply if, in relation to the first worker, the strike or other industrial action in question is an unofficial strike or other unofficial industrial action for the purposes of section 237 of the Trade Union and Labour Relations (Consolidation) Act 1992(1).

**You will see from the above the importance of informing agencies supplying, or likely to be supplying, labour during any industrial action firstly, that the action is official and secondly, the dates and times covered by the industrial action.**

Model letters are available from the Unite legal department to send to your employer and any Agencies that provide labour to your employer. Copies of these letters are attached to this email.

## **2. Emergency Cover**

Arrangements for emergency cover are longstanding and already in place across many of the sectors in which we organise. These arrangements are locally determined.

Given the widespread anger felt by all public sector workers to current government attacks on your pensions, jobs and services, many unions have successfully balloted for industrial action and we should be working as appropriate with other trade unions in our workplaces to establish a common, joint approach.

- It is important to us that we work as hard as we can to keep a largely sympathetic public on our site during this dispute. We will not put at risk life or limb and neither will the dead go unburied. It is a fact that our members genuinely care and respect the public we serve even if your employers and the current government do not.

In determining emergency cover officers and shop stewards/representatives must take into account only what constitutes genuine emergency provision for the protection of our vulnerable and unwell within the community, those currently in health or other public institutions and our wider public health priorities.

- **Only the minimum necessary to provide emergency cover should be agreed**
- **Those who continue to work as a consequence of dispensation being given should continue to show their support, by holding workplace meetings or attending events pre/post work in the community.**

Some sectors are issuing specific guidance on their own areas separately on emergency cover.

**Advice ends**