

Royal College of Nursing gifts UK government opportunity to block nurses' strike

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The Conservative government has secured a High Court ruling to curtail the nurses' strike planned for Sunday April 30 to Tuesday May 2—the strike will now end on Monday May 1.

Health Secretary Steve Barclay claimed the Royal College of Nursing (RCN)'s six-month mandate for industrial action, delivered on November 2 at noon, did not extend to May 2 under anti-strike laws.

It was already highly likely that the case would be decided in the government's favour. But RCN General Secretary Pat Cullen made this certain by choosing not to contest the case with a legal team. Instead, she turned up on her own to deliver a humble appeal. The judge took less than an hour to find in Barclay's favour.

Highlighting the deeply anti-democratic character of his case, Barclay had initially sought to use the "unlawful" action on May 2 as grounds to cancel the full three days of strikes. The government's intervention is of a piece with its increasingly aggressive crackdown on industrial action in Britain and internationally. Under the Minimum Service Levels (Strikes) Bill making its way through parliament, some healthcare workers and those in several other sectors will be forced to work during lawful strikes on pain of dismissal.

In France last year, the government issued requisition orders against refinery workers, forcing them to cross picket lines or face prison or a crippling fine. In the United States, President Biden and Congress banned a national strike by rail workers to force through a contract they had rejected.

The lesson of industrial disputes around the world is that workers are in conflict not only with particular employers, but with governments and the state acting on behalf of the ruling class. The second lesson is that to win

such a battle, workers must throw off the debilitating leadership of the trade union apparatus and take full democratic control of their disputes.

As NHS FightBack explained in a February statement, "Where next for the UK's National Health Service workers?", the government had begun "a massive programme of state repression, including the use of the armed forces during the NHS strikes, that will see strikes in essential services neutered or banned entirely by the Strikes (Minimum Service Levels) Bill that will become law by this summer.

"The Tories are on a war footing against the working class and workers want to take them on. Time and again, the demand has been raised for unified strike action, including calls for a general strike. But organising such a counter-offensive demands a political and organisational struggle against a trade union bureaucracy sabotaging every one of these struggles, and a Labour Party colluding with the Tories in their attacks."

The government's latest attack on the nurses, carried out in the face of overwhelming popular opposition, owes its success above all to the refusal of the trade union bureaucracy to mount a fightback.

In her witness statement, Cullen noted the union's "impressive democratic mandate to take action" and described Barclay's case as "a clear strategy by the Secretary of State to undermine the RCN and wear down its members in the industrial dispute. In doing so, the Secretary of State relies on oppressive legislation introduced by the Conservative government and designed to limit the ability of trade unions to call on their members to take industrial action."

But she made clear in advance in an email to nurses that she would nonetheless abide by the court's decision if it decided to rubber stamp this blatant act of intimidation:

“We expect that ministers could be successful in putting their full weight on the court and, if they win, we will let you know that the strike finishes at midnight on Monday (1 May) and not the following evening.”

The rest of Cullen’s statement was an extended plea based on the union’s constant efforts throughout the dispute to suppress nurses’ action. The RCN had, she said, “behaved responsibly and exercised considerable restraint in acting on the substantial mandate for action that it has been given by its members”.

Cullen explains at length, “In calling such action the RCN has shown significant restraint. Its first two days of strike action were called in relation to roughly half of the employers in relation to which it had a mandate. The second period of action covered the remaining half of employers. The third period covered acute services only amongst a limited number of employers.

“A further period of strike action from 1 – 3 March 2023 was announced on 16 February 2023 but was called off on 21 February 2023 so as to allow negotiations to take place.

“From a mandate of six months, no individual employer has seen more than 4 days of strike action to date, while only 6 days in total have been held anywhere so far.”

These actions were already significantly scaled down, she admitted, by the RCN’s failure to cross the 50 percent turnout required for a legal strike mandate in over half of NHS employers—“a requirement inserted by the Trade Union Act 2016”, which the union bureaucracy did nothing to oppose at the time and now routinely uses as an excuse for not organising strikes. The result, said Cullen, “was that 50,116 members who voted in favour of strike action have been disenfranchised from being called out where we did not achieve the 50% turnout requirement.”

It is this record of betrayal that made the government’s intervention possible. That any question at all can be raised over whether nurses have a mandate for strike action after May 1 is entirely down to the RCN, which did not hold a ballot to renew strike action because it was busy trying to force the government’s rotten pay offer on the membership.

The union threw everything it could at getting a Yes vote to accept, meaning Barclay’s High Court case is in fact the second time legal intimidation has been levelled against nurses in this dispute. The first came from the RCN leadership itself earlier this month when it announced the police had been called to investigate members campaigning for a No vote and for an Emergency General Meeting of the union.

Cullen and the RCN leadership pointedly made no plans to renew the strike mandate, with a ballot still not underway even now. Surprised by nurses’ rejection of the sell-out, they felt they could not get away with organising no action before the current ballot ran out, with Cullen switching seamlessly from disowning the union’s previous pay demands to demagoguery about a “historic vote to strike” requiring a “historic pay award”.

But these strikes were pushed right to the end of period covered by the ballot, handing the government a golden opportunity to go to the courts, which the RCN then did not even bother to engage a lawyer to contest.

Nothing will change the RCN leadership’s approach. It heads a dispute it never wanted to fight and expected to have shut down by now caught between a membership wanting to wage a determined struggle and a government not willing to offer a fig leaf behind which it can hide its desired betrayal.

Even in the High Court supposedly challenging the government, Cullen rolled out the red carpet for talks which can give the union an off-ramp from the dispute. She noted favourably in her statement the “partnership approach” taken by the government in Wales, “in stark contrast to the Secretary of State’s current action”—which allowed the RCN to call off strike action even earlier than in England while they put a succession of below-inflation offers to members.

The RCN leadership can only lead nurses to defeat. A new lead must be given by the rank-and-file. We call on all health workers to contact NHS FightBack to discuss how to take this work forward. NHS FightBack’s Facebook page is here and Twitter here.



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