

Matt Barrow
Organiser
TSSA
2nd Floor, Newminster House
27-28 Baldwin Street
Bristol
BS1 1LT
email: enquiries@tssa.org.uk
helpdesk: 0800 328 2673 (freephone)
www.tssa.org.uk



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West Midlands Trains: covering the duties of other staff taking industrial action

TSSA has written to West Midlands Trains seeking an assurance that managers undertaking the duties of staff taking industrial action, or training for such duties, will do so only on a voluntary basis. **The company has responded by giving that assurance.** TSSA will not tolerate our members being coerced, pressured or indeed instructed to undertake such duties, and members are asked to report any such instances to the TSSA Helpdesk (see below).

What is TSSA's advice to members that are asked to cover for staff taking industrial action?

TSSA members are advised to carry out their normal duties and attend for work at their normal times of work and for their normal rostered shifts. Members should decline to change their rostered hours of duty except in circumstances where their contract of employment allows their employer to change them. Should members need advice as to what their contract of employment allows their employer to instruct them to do, they should contact the TSSA Helpdesk (see below).

TSSA members are strongly urged not to agree to work extended hours, or carry out different or additional duties to those normally undertaken by them, if the need to do so arises directly out of or in consequence of industrial action, unless their contract of employment allows their employer to require them to do so. Regular rostered overtime should be worked as normal. Should members need advice as to the extent to which their contract of employment allows their employer to change their hours of work, they should contact the TSSA Helpdesk (see below).

It must be stressed that TSSA members should not at any time act in breach of their contracts of employment except in circumstances where TSSA itself calls on its members to take industrial action. To do so may result in their employer taking disciplinary action against them (including dismissal).

What about safety?



Should members, particularly those in management grades, undertake work that they do not normally carry out they should be entirely satisfied that they are qualified and competent to undertake that work. Members should not agree to undertake any duties where there is any doubt as to their individual competence in respect of safety matters. **More recent safety related events in the industry have highlighted the very serious consequences for individuals that can result from their involvement in an accident or serious safety incident, including potential prosecution and a possible prison sentence.**

TSSA members should invoke their legal right to refuse carry out work in circumstances where they believe there is a serious and imminent danger to themselves or others. This applies where members are instructed to carry out duties for which they believe they do not have the necessary safety competencies. It also applies if members are asked to work with other individuals that they believe do not have the necessary safety competencies, and where working with that individual or individuals would potentially compromise their safety.

Keep TSSA informed

In the event that the employer seeks the agreement of, or instructs members to undertake duties normally performed by members of other unions, members are urged to report the circumstances immediately to the TSSA Helpdesk (see below). This applies regardless of whether or not the individual's judgement is that they are competent to undertake the duties in question.

The TSSA Helpdesk should also be immediately informed should a member invoke their legal right to refuse carry out work in circumstances where they believe there is a serious and imminent danger to themselves or others.

Picket lines

TSSA may not lawfully encourage members to take part in secondary industrial action. Members may however choose as a matter of individual conscience not to cross a picket line. Members who choose not to cross a picket line and are therefore absent from work should be clear that such action is likely to be viewed by their employer as a breach of their contract of employment, and this may result in their employer taking disciplinary action against them (including dismissal). TSSA will of course provide advice, support and representation to any member facing disciplinary action in such circumstances.

Further information and advice

Should members have any questions or queries about the advice contained in this circular, they should contact the TSSA Members' Helpdesk for further advice and assistance - by email at helpdesk@tssa.org.uk or by phone free on 0800 328 2673.

