Response to the Secretary of State for Health’s Oral Statement on the Junior Doctors Contract (House of Commons – 19/05/2016)

The Secretary of State for Health (Mr Jeremy Hunt): With permission, Mr Speaker, I will make a statement on the junior doctors contract.

For the last three years there have been repeated attempts to reform the junior doctors contract to support better patient care seven days a week, culminating in a damaging industrial relations dispute that lasted for more than 10 months. I am pleased to inform the House that after 10 days of intensive discussion under the auspices of ACAS, the dispute was resolved yesterday with a historic agreement between the Government, NHS Employers—acting on behalf of the employers of junior doctors—and the British Medical Association that will modernise the contract by making it better for both doctors and patients. The new contract meets all the Government’s red lines for delivering a seven-day NHS, and remains within the existing pay envelope. We will publish an equalities analysis of the new terms alongside a revised contract at the end of the month, and it will be put to a ballot of the BMA membership next month, with the support of its leader, the chair of the junior doctors committee of the BMA, Johann Malawana.

I express my thanks to the BMA for the leadership it has shown in returning to talks, negotiating in good faith, and making an agreement possible. I also put on record my thanks to Sir Brendan Barber, the chair of ACAS, for his excellent stewardship of the process, and to Sir David Dalton for his wisdom and insight in conducting discussions on behalf of employers and the Government, both this time and earlier in the year. The agreement will facilitate the biggest changes to the junior doctors contract since 1999. It will allow the Government to deliver a seven-day NHS, improve patient safety and support much needed productivity improvements, as well as strengthening the morale and quality of life of junior doctors with a modern contract fit for a modern health service.

The contract inherited by the Government had a number of features badly in need of reform, including low levels of basic pay as a proportion of total income, which made doctors rely too heavily on unpredictable unsocial hours supplements to boost their income; automatic annual pay rises even when people took prolonged periods of leave from the NHS; an unfair banding system that triggered payment of premium rates to every team member even if only one person had worked extra hours; high premium rates payable for weekend work that made it difficult to roster staff in line with patient need; and risks to patient safety, with doctors sometimes required to work seven full days or seven full nights in a row without proper rest periods.

The Government have always been determined that our NHS should offer the safest, highest quality of care possible, which means a consistent standard of care for patients admitted across all seven days of the week. The new contract agreed yesterday makes the biggest set of changes to the junior doctors contract for 17 years, including by establishing the principle that any doctor who works less than an average of one weekend day a month—Saturday or Sunday—should receive no additional premium pay, compensated for by an increase in basic pay of between 10% and 11%; by reducing the marginal cost of employing additional doctors at the weekend by about a third; by supporting all hospitals to meet the four clinical standards most important for reducing mortality rates for weekend admissions by
establishing a new role for experienced junior doctors as senior clinical decision makers able to make expert assessments of vulnerable patients admitted to or staying in hospital over weekends; and by removing the disincentive to roster enough doctors at weekends by replacing an inflexible banding system with a fairer system that values weekend work by paying people for actual unsocial hours worked, with more pay for those who work the most.

The Government also recognise that safer care for patients is more likely to be provided by well-motivated doctors who have sufficient rest between shifts and work in a family-friendly system. The new contract and ACAS agreement will improve the wellbeing of our critical junior doctor workforce by reducing the maximum hours a doctor can be asked to work in any one week from 91 to 72; reducing the number of nights a doctor can be asked to work consecutively to four, and the number of long days a doctor can be asked to work to five; introducing a new post, a guardian of safe working, in every trust to guard against doctors being asked to work excessive hours; introducing a new catch-up programme for doctors who take maternity leave or time off for other caring responsibilities; establishing a review by Health Education England to consider how best to allow couples to apply to train in the same area and to offer training placements for those with caring responsibilities close to their home; giving pay protection to doctors who switch specialties because of caring responsibilities; and establishing a review to inform a new requirement for trusts to consider caring and other family responsibilities when designing rotas.

Taken together, these changes show both the Government’s commitment to safe care for patients and the value we attach to the role of junior doctors. While they do not remove every bugbear or frustration, they will significantly improve flexibility and work-life balance for doctors, leading, we hope, to improved retention rates, higher morale and better care for patients.

Whatever the progress made with today’s landmark changes, however, it will always be a matter of great regret that it was necessary to go through such disruptive industrial action to get there. We may welcome the destination, but no one could have wanted the journey, so today I say to all junior doctors, whatever our disagreements about the contract may have been, that the Government have heard and understood the wider frustrations they feel about the way they are valued and treated in the NHS. Our priority will always be the safety of patients, but we also recognise that to deliver high-quality care we need a well-motivated and happy junior doctor workforce. Putting a new modern contract in place is not the end of the story. We will continue to engage constructively to try to resolve outstanding issues, as we proceed on our journey to tackle head on the challenges the NHS faces, and make it the safest, highest-quality healthcare system anywhere in the world. Today’s agreement shows we can make common cause on that journey with a contract that is better for patients, better for doctors and better for the NHS. I commend my statement to the House.

Heidi Alexander (Lewisham East) (Lab): I start by putting on record our thanks to Sir Brendan Barber and ACAS for the role they have played in finding agreement between the two sides in this dispute. I also pay tribute to the Academy of Medical Royal Colleges, which proposed these further talks and encouraged both the Government and the BMA to pause and think about patients.

I have not been shy in telling the Health Secretary what I think about his handling of this dispute, but today is not the day to repeat those criticisms. I am pleased and relieved that an agreement has been reached, but I am sad that it took an all-out strike of junior doctors to get the Government back to the table. What is now clear, if it was not already, is that a negotiated agreement was possible all along. I have to ask the Health Secretary why this
deal could not have been struck in February. Why did he allow his pride back then to come before sensible compromise and constructive talks?

When he stands up to reply, he may try to blame the BMA for the breakdown in the negotiations, but he failed to say what options he was prepared to consider in order to ensure that the junior doctors who work the most unsociable hours are fairly rewarded. It was a “computer says no” attitude, and that is no way to run the NHS.

Why did the Health Secretary ignore my letter to him of 7 February, in which I asked him to make an explicit and public commitment to further concessions on the issue of unsociable hours? I was clear that if he had done that then, I would have encouraged the BMA to return to talks. Why did he insist instead on trying to bulldoze an imposed contract through, when virtually everyone told him not to, and the consequences of doing so were obvious for all to see—protracted industrial action, destroyed morale and a complete breakdown in trust?

On the detail of the new contract, will the Health Secretary say a little more about the agreed changes that will undo the discriminatory effect on women of the last contract he published? Does he now accept that the previous contract discriminated against women? Will he be clear for the record that he now understands this was never “just about pay”? Can he confirm that concessions have been made not only in respect of the mechanism for enforcing hours worked and breaks taken, but in ensuring that the specialties with the biggest recruitment problems have decent incentives built into the contract?

Moving on to what happens next, can the Health Secretary tell us what he will do if junior doctors vote against this offer? Will he still impose a contract, and which version of the contract will he impose—his preferred version or this compromise one? Can he say whether the possibility of losing a case in the High Court about his power to impose a contract had anything to do with his recently discovered eagerness to return to talks? We all know that the High Court told him he had acted above the law when he tried to take the axe to my local hospital, so I can understand why he does not want that embarrassment again.

Finally, let me caution the Health Secretary on his use of language both in this Chamber and in the media. His loose words and implied criticism of junior doctors is partly the reason why this has ended up being such an almighty mess. May I suggest that a degree of humility on the part of the Secretary of State would not go amiss? May I recommend a period of radio silence from him to allow junior doctors to consider the new contract with clear minds, and without his spin echoing in their ears? I remind him that he still needs to persuade a majority of junior doctors to vote in favour of the contract for the dispute to be finally over.

I hope with all my heart that yesterday’s agreement may offer a way forward. Junior doctors will want to consider it; trust needs to be repaired, and that will take time. I hope for the sake of everyone, patients and doctors, that we may now see an end to this very sorry episode in NHS history.

Mr Hunt: The hon. Lady is wrong today, as she has been wrong throughout this dispute. In the last 10 months, she has spent a great deal of time criticising the way in which the Government have sought to change the contract. What she has not dwelt on, however, is the reason it needed to be changed in the first place, namely the flawed contract for junior doctors that was introduced in 1999.

We have many disagreements with the BMA, but we agree on one thing: Labour’s contract was not fit for purpose. Criticising the Government for trying to put that contract right is like
criticising a mechanic for mending the car that you just crashed. It is time that the hon. Lady acknowledged that those contract changes 17 years ago have led to a number of the five-day care problems that we are now trying to sort out.

The hon. Lady was wrong to say that an all-out strike was necessary to resolve the dispute. The meaningful talks that we have had have worked in the last 10 days because the BMA bravely changed its position, and agreed to negotiate on weekend pay. The hon. Lady told the House four times before that change of heart that we should not impose a new contract. What would have happened if we had followed her advice? Quite simply, we would not have seen the biggest single step towards a seven-day NHS for a generation, the biggest reforms of unsocial hours for 17 years, and the extra cost of employing a doctor at weekends going down by a third. We would not have seen the reductions in maximum working hours. We would not have seen many, many other changes that have improved the safety of patients and the quality of life of doctors.

The hon. Lady was also wrong to say that the previous contract discriminated against women. In fact, it removed discrimination. Does that mean that there are not more things that we can do to support women who work as junior doctors? No, it does not. The new deal that was announced yesterday provides for an important new catch-up clause for women who take maternity leave, which means that they can return to the position in which they would have been if they had not had to take time off to have children.

The hon. Lady asked what would happen if the ballot went the wrong way. What she failed to say was whether she was encouraging junior doctors to vote for the deal. Let me remind her that on 28 October, she told the House that she supported the principle of seven-day services. As Tony Blair once said, however, one cannot will the end without willing the means. The hon. Lady has refused to say whether she supported the withdrawal of emergency care, she has refused to say whether she supports contentious changes to reform premium pay, and now she will not even say whether doctors should vote for the new agreement.

Leadership means facing up to difficult decisions, not ducking them. I say to the hon. Lady that this Government are prepared to make difficult decisions and fight battles that improve the quality and safety of care in the NHS. If she is not willing to fight those battles, that is fine, but she should not stand at the Dispatch Box and claim that Labour stands up for NHS patients. If she does not want to listen to me, perhaps she should listen to former Labour Minister Tom Harris, who said:

“Strategically Labour should be on the side of the patients and we aren’t.”

Well, if Labour is not, the Conservatives are.

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You can read the full debate following the Secretary of State for Health’s statement on Hansard at the link below: