Response to the oral statement from the Secretary of State for Health regarding the junior doctors’ contract (House of Commons – 11/02/2016)

The Secretary of State for Health (Mr Jeremy Hunt): Nearly three years ago to the day, the Government first sat down with the British Medical Association to negotiate a new contract for junior doctors. Both sides agreed that the current arrangements, drawn up in 1999, were not fit for purpose and that the system of paying for unsocial hours in particular was unfair. Under the existing contract, doctors can receive the same pay for working quite different amounts of unsocial hours; doctors not working nights can be paid the same as those who do; and if one doctor works just one hour over the maximum shift length, it can trigger a 66% pay rise for all doctors on that rota.

Despite the patent unfairness of the contract, progress in reforming it has been slow, with the BMA walking away from discussions without notice before the general election. Following the election, which the Government won with a clear manifesto commitment to a seven-day NHS, the BMA junior doctors committee refused point blank to discuss reforms, instead choosing to ballot for industrial action. Talks finally started—under the Advisory, Conciliation and Arbitration Service process—in November, but since then we have had two damaging strikes, which have resulted in about 6,000 operations being cancelled.

In January, I asked Sir David Dalton, chief executive of Salford Royal, to lead the negotiating team for the Government. Under his outstanding leadership, for which the whole House will be immensely grateful, progress has been made on almost 100 different points of discussion, with agreement secured with the BMA on approximately 90% of them. Sadly, despite this progress and willingness from the Government to be flexible on the crucial issue of Saturday pay, Sir David wrote to me yesterday advising that a negotiated solution was not realistically possible. Along with other senior NHS leaders and supported by NHS Employers, NHS England, NHS Improvement, the NHS Confederation and NHS Providers, Sir David has asked me to end the uncertainty for the service by proceeding with the introduction of a new contract that he and his colleagues consider both safer for patients and fair and reasonable for junior doctors. I have therefore today decided to do that.

Tired doctors risk patient safety, so in the new contract the maximum number of hours that can be worked in one week will be reduced from 91 to 72; the maximum number of consecutive nights doctors can be asked to work will be reduced from seven to four; the maximum number of consecutive long days will be reduced from seven to five; and no doctor will ever be rostered consecutive weekends. Sir David believes that these changes will bring substantial improvements to both patient safety and doctor wellbeing. We will also introduce a new guardian role within every trust. These guardians will have the authority to impose fines for breaches to agreed working hours based on excess hours worked. These fines will be invested in educational resources and facilities for trainees.

The new contract will give additional pay to those working Saturday evenings from 5 pm, nights from 9 pm to 7 am and all day on Sunday, and plain time hours will now be extended from 7 am to 5 pm on Saturdays. However, I said that the Government were willing to be flexible on Saturday premium pay, and we have been: those working one in four or more Saturdays will receive a pay premium of 30%. That is higher on average than that available to nurses, midwives, paramedics and most other clinical staff, and also higher than that available to fire officers, police officers and those in many other walks of life.

None the less, the changes represent a reduction compared with current rates, but that is necessary to ensure that hospitals can afford additional weekend rostering, and because we do not want take-home pay to go down for junior doctors, after updated modelling, I can tell
the House that these changes will allow an increase in basic salary not of 11%, as previously thought, but of 13.5%. Three quarters of doctors will see a take-home pay rise, and no trainee working within contracted hours will have their pay cut.

Our strong preference was always for a negotiated solution. Our door remained open for three years, and we demonstrated time and again our willingness to negotiate with the BMA on the concerns it raised. However, the definition of negotiation is a discussion where both sides demonstrate flexibility and compromise on their original objectives. The BMA ultimately proved unwilling to do this.

In such a situation, any Government must do what is right for both patients and doctors. We have now had eight independent studies in the last five years identifying higher mortality rates at weekends as a key challenge to be addressed. Six of these say staffing levels are a factor that needs to be investigated. Professor Sir Bruce Keogh describes the status quo as “an avoidable weekend effect which if addressed could save lives”, and has set out the 10 clinical standards necessary to remedy this. Today, we are taking one important step necessary to make this possible.

While I understand that this process has generated considerable dismay amongst junior doctors, I believe that the new contract we are introducing, shaped by Sir David Dalton, and with over 90% of the measures agreed by the BMA through negotiation, is one that in time can command the confidence of both the workforce and their employers.

I do believe, however, that the process of negotiation has uncovered some wider and more deep-seated issues relating to junior doctors’ morale, wellbeing and quality of life that need to be addressed.

These issues include inflexibility around leave; lack of notice about placements that can be a long way from home; separation from spouses and families; and sometimes inadequate support from employers, professional bodies and senior clinicians. I have therefore asked Professor Dame Sue Bailey, president of the Academy of Medical Royal Colleges, alongside other senior clinicians, to lead a review into measures outside the contract that can be taken to improve the morale of the junior doctor workforce. Further details of this review will be set out soon.

No Government or Health Secretary could responsibly ignore the evidence that hospital mortality rates are higher at the weekend or the overwhelming consensus that the standard of weekend services is too low, with insufficient senior clinical decision makers. The lessons of Mid Staffs, Morecambe Bay and Basildon in the last decade are that patients suffer when Governments drag their feet on high hospital mortality rates, and this Government are determined that our NHS should offer the safest, highest-quality care in the world.

We have committed an extra £10 billion to the NHS this Parliament, but with that extra funding must come reform to deliver safer services across all seven days. This is not just about changing doctors contracts. We also need better weekend support services such as physiotherapy, pharmacy and diagnostic scans; better seven-day social care services to facilitate weekend discharging; and better primary care access to help tackle avoidable weekend admissions. Today, we are taking a decisive step forward to help deliver our manifesto commitment, and I commend this statement to the House.

Heidi Alexander (Lewisham East) (Lab): I am grateful to the Secretary of State for advance sight of his statement. It would have been good to have previewed this exchange during the urgent question on Monday, but we all know that the Secretary of State could not be bothered to turn up. You might also think, Mr Speaker, that the Health Secretary would do me the courtesy of responding to the two letters I have sent to him in the last week, but you would be wrong. So much for a seven-day health service! A five-day-a-week Health Secretary would be nice.
This whole dispute could have been handled so differently. The Health Secretary’s failure to listen to junior doctors, his deeply dubious misrepresentation of research about care at weekends and his desire to make these contract negotiations into a symbolic fight for delivery of seven-day services has led to a situation that has been unprecedented in my lifetime. Everyone, including the BMA, agrees with the need to reform the current contract, but hardly anyone thinks the need to do that is so urgent that it justifies imposition, and all the chaos that will bring.

The Health Secretary said NHS leaders had asked him to “end the uncertainty”, but can he confirm that that means they support “imposing” a new contract? One hospital chief executive, who the Secretary of State claims is supporting him, tweeted this morning:

“I have supported the view that the offer made is reasonable…I have not supported contract imposition”.

For the purpose of clarity, can the Secretary of State say categorically that all the NHS leaders whom he mentioned fully support his actions? Can he not see that imposing a new contract that does not enjoy the confidence of junior doctors will destroy morale, which is already at rock bottom? Does he not realise that this decision could lead to a protracted period of industrial action that would be distressing for everyone—patients, doctors, and everyone else who works in or depends on the NHS? [Interruption.]

Mr Speaker: Order. There is far too much noise in the Chamber. Let me say this to Members on both sides of the House who are shouting: do it again, and you will not be called. It is as simple as that. If Members cannot exercise the self-restraint to be quiet while the Front Benchers are speaking, they have no business taking part in the exchanges.

Heidi Alexander: I am grateful to you, Mr Speaker.

What impact does the Secretary of State honestly think an imposed contract will have on recruitment and retention? Earlier this week, a poll found that nearly 90% of junior doctors would be prepared to leave the NHS if a contract were imposed. How does the Secretary of State propose to deliver seven-day services with one tenth of the current junior doctor workforce? How can it possibly be right for us to be training junior doctors and the consultants of tomorrow, only to export them en masse to the southern hemisphere? The Secretary of State needs to stop behaving like a recruiting agent for Australian hospitals, and start acting like the Secretary of State for our NHS.

What advice did the Secretary of State take before making this decision? He may not want to respond to my letters, but what does he say to the Royal College of Surgeons, the Royal College of Obstetricians and Gynaecologists, and the Royal College of Paediatrics and Child Health, all of which have urged him not to impose a contract? What legal advice has he taken about how an imposed contract would work in practice? What employment rights do junior doctors have in this context, and what will happen if they simply refuse to sign?

The Secretary of State has been keen to present a new junior doctors contract as the key which will unlock the delivery of seven-day services, but that is a massive oversimplification, and he knows it. Although research shows that there is a higher mortality rate among patients who are admitted to hospital at weekends, there is absolutely no evidence to show that it is specifically caused by a lack of junior doctors. Will the right hon. Gentleman state, for the record, that he accepts that?

One of the real barriers to more consistent seven-day services is the consultants contract. Until now, at least, the BMA and the Government were making progress in those negotiations. Could not a decision to impose a new junior doctors contract put the consultant negotiations at risk, and make the delivery of seven-day services even harder?
Will the Secretary of State also make clear how the definition of unsocial hours will need to change in other contracts in order for seven-day services to be delivered, and which groups of staff that will apply to?

What we heard from the Secretary of State today could amount to the biggest gamble with patient safety that the House has ever seen. He has failed to win the trust of the very people who keep our hospitals running, and he has failed to convince the public of his grounds for change. Imposing a contract is a sign of failure, and it is about time the Secretary of State realised that.

Mr Hunt: The hon. Member for Lewisham East (Heidi Alexander) has made a number of incorrect statements with which I shall deal with later, but what the country will notice about her response is more straightforward. When we have a seven-day NHS, in a few years’ time, people will say that it was obviously necessary and the right thing to do. They will remember that it was not easy to get there, and they will also remember—sadly—the big call that she made today for short-term political advantage to be placed ahead of the long-term interests of patients.

Previous reforming Labour Governments might have done what we are doing today. Let me say to the hon. Lady that she has vulnerable constituents—we all have vulnerable constituents—who need a true seven-day NHS, and those are precisely the people that the NHS should be there for. Sorting this out should not be a party issue; it should be something that unites the whole House, and she will come to regret the line that she has taken today.

Let me address some of the hon. Lady’s particular points. She has said today and on other occasions that this has been badly handled. If she wants to know who has handled contract negotiations badly, it was the party that gave consultants the right to opt out from weekend work in 2003 and that gave GPs the right to opt out of out-of-hours care in 2004. Is it difficult to sort out those problems? Yes. Are we going to be lectured by the people who caused them? No, we are not.

The hon. Lady also questioned whether there was support for imposition. Let me just read her exactly what the letter that I got from Sir David Dalton says. He states that, on the basis of the stalemate,

“I therefore advise the government to do whatever it deems necessary to end uncertainty for the service and to make sure that a new contract is in place which is as close as possible to the final position put forward to the BMA yesterday.”

And what does Simon Stevens, chief executive of NHS England, say?

“Under these highly regrettable and entirely avoidable circumstances, hospitals are rightly calling for an end to the uncertainty, and the implementation of the compromise package the Dalton team are recommending.”

The hon. Lady talked about the impact on morale. Perhaps she would like to look at the hospitals that have implemented seven-day care, including Salford Royal, Northumbria and one or two others. They have some of the highest morale in the NHS, because morale for doctors is higher when they are giving better care for patients. She also says that we should not impose the contract, but what she is actually saying is that if the BMA refuses point blank to negotiate on seven-day care, we should give up looking after and doing the right thing for vulnerable patients. What an extraordinary thing for a Labour shadow Health Secretary to say. She also said that we were conflating the junior doctors contract with seven-day working. Well, let us look at what the Academy of Medical Royal Colleges said in 2012. It said:

“The weekend effect is very likely attributable to deficiencies in care processes linked to the absence of skilled and empowered senior staff”.

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Most medical royal colleges say that junior doctors with experience qualify as senior staff.

The NHS has made great strides in improving the quality of care. Since I have been Health Secretary, avoidable harm in hospitals has nearly halved, nearly 20% of acute hospitals have been put into a new special measures regime—and we are turning them round—and record numbers of members of the public say that their care is safe and that they are treated with dignity and respect. The seven-day NHS is not just a manifesto commitment; we are doing this because we are willing to fight to make the NHS the safest, highest quality healthcare system in the world. Today we have seen that the Labour party is not prepared to have that fight. Does not this prove to the country that it is the Conservatives who are now the true party of the NHS?