Urgent Question on the Junior Doctors’ Contract Negotiations (House of Commons – 08/02/2016)

Heidi Alexander (Lewisham East) (Lab) (Urgent Question): To ask the Secretary of State for Health if he will make a statement on the junior doctors’ contract negotiations.

The Parliamentary Under-Secretary of State for Health (Ben Gummer): I would be delighted to update the House on the junior doctors’ proposed industrial action. The Government were elected on a mandate to provide for the NHS the resources it asked for and to make our NHS a truly seven-day service. The provision of consistent clinical standards on every day of the week demands 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 to tackle avoidable weekend admissions.

Consistent seven-day services also demand reform of staff contracts, including those of junior doctors, to help hospitals to roster clinicians in a way that matches patient demand more evenly across every day of the week. In October 2014, the British Medical Association withdrew from talks on reforming the junior doctors’ contract and, despite the fact that the Government asked it to return, did not start talking again until the end of November last year in talks facilitated by the Advisory, Conciliation and Arbitration Service. Throughout December we made very good progress on a wide range of issues and reached agreement on the vast majority of the BMA’s concerns.

Regrettably, we did not come to an agreement on two substantive issues, including weekend pay rates. Following strike action last month, the Secretary of State appointed Sir David Dalton, one of our most respected NHS chief executives, to take negotiations forward on behalf of the NHS. Further progress has been made under Sir David’s leadership, particularly in areas relating to safety and training. However, despite agreeing at ACAS to negotiate on the issue of weekend pay rates, Sir David Dalton has advised us that the BMA has refused to discuss a negotiated solution on Saturday pay. In his letter to the Secretary of State last week, Sir David stated:

“Given that we have made such good progress over the last 3 weeks—and are very nearly there on all but the pay points—it is very disappointing that the BMA continues to refuse to negotiate on the issue of unsocial hours payment. I note that in the ACAS agreement of 30 November, both parties agreed to negotiate on the number of hours designated as plain time and I hope that the BMA will still agree to do that.”

The Government are clear that our door remains open for further discussion, and we continue to urge the BMA to return to the table. Regrettably, the BMA is instead proceeding with strike action over a 24-hour period from 8 am this Wednesday. Robust contingency planning has been taking place to try to minimise the risk of harm to the public, but I regret to inform the House that the latest estimates suggest that 2,884 operations have been cancelled.

I hope that hon. Members from both sides of the House will join me in urging the BMA to put patients first, call off its damaging strike and work with us to ensure we can offer patients consistent standards of care every day of the week.

Heidi Alexander: There is so much that could be said about this dispute that it is hard to know where to begin, so let me ask the Minister four simple questions.
First, the Health Secretary says that his door is open to further talks with the BMA. What does that mean? Specifically, can the Minister envisage a new contract where the definition of plain time working at weekends applies only to a Saturday morning?

Secondly, if a negotiated solution to a new junior doctor contract cannot be found, will the Minister today rule out imposing one? Does he not see how harmful imposition would be to patients, given its impact on staff morale, the risk of a protracted period of industrial action and the implications for future recruitment and retention?

Thirdly, can the Minister confirm that the pay protection offered to one in four junior doctors means that those doing the equivalent jobs in the future will be worse off? Should we not value the junior doctors of tomorrow as much as we value those of today?

Fourthly, and finally, throughout the dispute Ministers have repeatedly conflated the need to reform the junior doctor contract with their manifesto commitment to a seven-day NHS. Can the Minister name a single chief executive who has told him that the junior doctor contract is the barrier to providing high quality care 24/7? If junior doctors are the staff group who have to change their working patterns least to deliver this, which other groups of NHS staff will need to have the definition of unsocial hours changed in their contracts during this Parliament?

In the past year, the Health Secretary has implied that doctors do not work weekends, insinuated that juniors are somehow to blame for deaths among patients admitted on Saturdays and Sundays, and insulted professionals’ intelligence by telling them they have been misled by the BMA. If he was here, I would ask him whether he regrets the way he has handled this dispute, but he has not even got the nerve to turn up.

No one is saying the existing junior doctors’ contract is perfect, but if you speak to anyone in the NHS, they will tell you that this whole episode has been an exercise in using a sledgehammer to crack a nut. It is time now for the Government to do what is right for patients, for staff and for the NHS.

Ben Gummer: The hon. Lady wonders where to begin. I would say to her that where we begin is with the promise made to the electorate to deliver seven-day services in order to make care more consistent through the week and thereby bring down the rate of avoidable deaths. That has been the aim of this Government—pursued in the guise of the previous coalition and by the current Government—for some years. The junior doctors’ contract, about which negotiations have been going on for some years, has been framed partly in that respect during that time.

The hon. Lady asks a number of questions, and I will answer them directly. She asks whether the door is open and whether the Secretary of State is willing to see further talks. Of course it remains open. Throughout the entire process—from back in the summer, when the BMA made it a point of principle not to return to talks—we have asked the BMA to come back to the negotiating table time and again. I have done so, as has the Secretary of State, so the door remains open. I hope that, in the coming days up to the strike, such contacts will continue.

The hon. Lady asks whether there can be discussions about Saturdays. The Secretary of State has made it plain throughout the process that every aspect of the contract is open for discussion. What is not up for discussion is the ability of hospitals to roster clinicians on a consistent basis through the week. The one group of people who are refusing to negotiate about Saturdays or anything to do with the extension of plain time is the British Medical Association. Despite its assurance—in fact, its promise—at ACAS at the end of the November that it wished to discuss this issue, it has now refused to do precisely that with Sir
David Dalton. We are therefore left at an impasse, where I am afraid that on the one item left to discuss, which is Saturdays, it is refusing point blank to open a discussion because of what it calls an issue of principle. For us, the principle is patient safety, and that is why we will not move.

The hon. Lady’s second question was about the introduction of a new contract. At some point, the Government will need to make a decision. Time and again, we have extended the point at which we will introduce the new contract, precisely so that we can give time for talks to proceed, even though the BMA, in a disjointed manner, refused to discuss it for several years until this point. At some point, we will have to make the changes necessary to get consistency of service over weekends. We cannot delay this any longer. No Health Secretary or Health Minister could stand in the face of the many academic studies that have shown there is an avoidable weekend effect and say that nothing should happen. Of course this should be done in concert with other contract changes—changing the availability of diagnostics, pharmacy and other services—and we have always said that it is part of the piece, but it has to be done at some point and that point is fast approaching.

The hon. Lady asks whether imposition will be harmful to patients. I ask her to consider whether avoiding changing rostering patterns to eliminate the weekend effect would not itself be harmful to patients to the number of several thousand a year.

The hon. Lady asks about pay protection. We have urged the BMA to put to its members the pay protection that we made clear right at the beginning of the process, but I am afraid that it wilfully misled its members about the pay offer that we put on the table. I ask her, therefore, to be careful in what she says. For this cohort of junior doctors, this is a very good deal. Those who are coming into the service can be assured that they will have a quality of contract that the current cohort has not benefited from: a reduction in the maximum number of consecutive nights from seven to four; a reduction in the maximum number of consecutive long day shifts from seven to five; a reduction in the maximum number of consecutive long late shifts from 12 to five; and a reduction in the maximum number of hours one can work in a week from 91 to 72. Those are considerable improvements in the contract that will protect the safety and working practices of future generations of junior doctors.

When the hon. Lady wrapped up her remarks, she asked whether we had any regrets about the way this process has proceeded. We do have regrets. We regret that the BMA wilfully misled its members at the beginning of the process, making them believe that there was going to be a cut to pay and an increase in hours, neither of which was true. We certainly regret the fact that the BMA refused to talk to us for months on end, when many of these issues could have been dealt with. We certainly regret the fact that the BMA has gone back on its promise to discuss plain time hours—a promise made at ACAS that it has now reneged upon. I am afraid that in dealing with the BMA, we have not been able to address the matter that is most important to doctors, which is protecting patient safety. That is why, in the end, we will have to come to a decision on this contract for the betterment of patients and the consistency of clinical standards through the week.