

Dr Mark Porter and Dr Johann Malawana
British Medical Association
BMA House
Tavistock Square
London WC1H 9JP

2 Brewery Wharf
Kendell Street
Leeds LS10 1JR
Tel 0113 306 3000
Fax 0113 306 3001

enquiries@nhsemployers.org
www.nhsemployers.org

9 February 2016

Dear Mark and Johann

I really appreciated the opportunity to meet today to consider whether we could make any further progress on the substantive outstanding issues of the junior doctors' contract. As you know we have reached substantial agreement on the issues of safety and training and have been discussing these and the components of our best and final proposition on the contract, with ACAS support, over recent weeks. Today was the opportunity to place an improved offer to you on those substantive outstanding issues.

Thank you for your consideration of these issues which I outline below:

Unsocial Hours

In my letter of 16th January 2016 I described revisions to the hours designated as 'plain-time' (Monday to Friday, 0700 to 2100 and Saturday 0700 to 1700). Following our discussions I can now confirm that the NHS would move significantly further than the current offer and that we would also pay premium rates to all junior doctors who worked 1 in 4 weekends or more for all Saturdays they worked. This would mean, based upon our assessment, that the majority of trainees who work Saturdays would get paid a premium rate for working Saturdays. This is a substantial improvement on the current offer where we assessed that c. 15% would have received premium pay.

Non-Resident On Call

Our current offer proposes to pay a top-rate availability supplement to junior doctors working Non Resident On Call of 10% (for a one in four on call rota) and 5% for those on a less than one in four. I can confirm today our improved position to pay a higher rate to ST 1 to 2 doctors based on applying these percentages to the ST3 to 7 nodal point and making these sums available to ST1 and ST2 doctors, we assess this would provide an increase of over £1000 to ST1 and ST2's

Fines and Pay for Work Done

Where a doctor breaches their hours protection under the EWTD (ie 48 hours) or works greater than 72 hours in a week, our current offer would provide a pay rate of 150%. I can confirm an improved offer for the doctor to receive an excess hours payment of double (200%) of the prevailing hourly rate, and the same amount would be levied as a fine held by the Guardian.

Implementation

As discussed the terms of the contract will be introduced by employers in a phased manner over 12 months from August 2016. It is expected that implementation would be completed in 12 months. The Guardian role would be introduced in every employer in August 2016, and we agree that the BMA and NHS Employers would jointly monitor implementation.

Throughout our discussions we have both agreed that a settlement should protect the safety and welfare of doctors in training and enable an effective service for the NHS. I am pleased that we continue to share this position.

We have both acknowledged that there are underlying issues which have created the conditions for doctors in training to feel a high level of discontent. I repeat my assurance that I will strongly recommend that a Review of the long standing concerns should be established which can make recommendations to improve the welfare and morale of trainees. The conduct of this review, in addition to including the Academy of Medical Royal Colleges, Health Education England and NHS Employers should also ensure that the voice of junior doctors is heard in partnership with the BMA.

I must stress that this significantly improved offer is the best and final position on the substantive issues which are outstanding. Since the start of my involvement I have always been clear that I wanted to achieve a position which was 'fair and reasonable' and which would carry the support of the Service. Following involvement of a senior reference group and a more wider involvement of other senior leaders in the NHS, I can confirm that this improved offer is judged as having achieved this objective.

We discussed the importance of ensuring that your members had the opportunity to understand the final offer and I am happy to present, at your suggested invitation, to the JDC on 20 February 2016. Furthermore, I can confirm that NHS Employers are happy to work with you, as suggested, to prepare the full package of offer materials to be presented to your membership in any referendum. NHS Employers also confirm that they are happy, as requested, to share the rota data with you.

As you will know from my previous letter, I have gone on record in saying that the service needs certainty on the contract by the middle of February at the very latest. The issues under discussion are not new, and it is absolutely vital that the service has resolution and clarity of these issues as soon as possible. I therefore believe that it is crucial that I have a clearer understanding of the endorsement you will give to this final offer if I am to be able to recommend to government that it proceeds in the way that you have suggested.

I ask you to confirm to me in writing that you would publicly recommend this best and final offer with respect to these substantive issues, to the JDC and recommend that they endorse it as the proposition to be put to your members.

I therefore ask you to let me know, by 3pm tomorrow at the very latest, whether you are both prepared to back the proposals and recommend their acceptance to your JDC. It is not possible to offer an extension to this deadline.

If you are not able to give me the assurance, I ask for in this letter, I need to be absolutely clear that I will assume that there is no realistic prospect of a negotiated agreement. In that circumstance I will advise the Secretary of State that we would have reached the end of the road in relation to the likelihood of reaching a negotiated agreement.

Yours sincerely



Sir David Dalton
Chief Executive
Salford Royal NHS Foundation Trust

cc: Danny Mortimer, CE, NHS Employers