
Debate on an e-petition relating to contracts and conditions in the NHS

Westminster Hall Debate 14 September 2015

UK parliament and government petitions:

*'A vote of no confidence in Health Secretary the Right Hon Jeremy Hunt'
Jeremy Hunt has alienated the entire workforce of the NHS by threatening to impose a harsh contract and conditions on first consultants and soon the rest of the NHS staff.*

About the BMA

The British Medical Association (BMA) is an apolitical professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 154,000, which continues to grow each year.

Key points

- **Nine in 10 consultants currently work across seven days delivering high quality urgent and emergency care across the week. Junior doctors also provide high quality around the clock and over seven-days, often working long and frequent shifts.**
- **The BMA supports better hospital services across seven-days and believes patients should receive the same high standard of care across the week.**
- **The government's definition of a 'seven-day health service' reflects the level of service already provided by the NHS. NHS staff feel alienated by public statements that the NHS closes at weekends.**
- **Priority for investment in the NHS must be given to urgent and emergency care across seven-days.**
- **Whilst factors contributing to avoidable mortality must be addressed and tackled, mortality rates should not be used to damage public confidence in the health service.**
- **The government set out an unreasonable timetable for the BMA to enter discussions on behalf of all secondary care doctors in the UK. The actions of the government amount to negotiation by public ultimatum at a time when staff feel undervalued,**



which makes it more difficult to achieve support for changes designed to benefit patients.

- **The BMA has now decided to re-enter negotiations on the consultant contract.**

Background

The BMA entered negotiations with NHS Employers (NHSE) for new consultants and junior doctors' contracts in October 2013. These were the first invitations to negotiate the contract for 13 years. After such a long time between negotiations there was much to be discussed. However, on 16 October 2014, after a year of negotiating, contract talks stalled over concerns about safety for patients, and that doctors' welfare was not being effectively considered by NHSE.

The negotiations were then referred to the Doctors' and Dentists' Remuneration Body (DDRB) who were asked to make observations on proposals for reforming the consultant contract to better facilitate the delivery of healthcare services seven days a week in England, Northern Ireland and Wales. For junior doctors in England, Northern Ireland and Wales the DDRB was asked to make recommendations on changes to contractual arrangements, something previously outside of the DDRB's remit. For juniors in Scotland, they were asked to just make observations. The report was published on 16 July 2015¹, coinciding with a speech the Secretary of State made which set out an ultimatum to the medical profession to re-enter contract negotiations² or face imposition.

The BMA has been clear about our support for better seven-day hospital services, with a focus on urgent and emergency care. Despite the publication of the DDRB, and the government's response, we are still no closer to finding out how the government will pay for more weekend care or how they will ensure there isn't a reduction in mid-week services. This is a point reiterated by the DDRB who explicitly recognise that it is not clear that 'change could be implemented without further resource.'

Timetable for agreement

In his speech on 16 July, the secretary of state announced a compressed timetable for the BMA to have discussions with NHSE and the government over a new contract, including a six week window with a September deadline to comply. The consequence of not being able to meet this deadline to negotiate was made clear in the speech – a new contract would be imposed. Subsequently this deadline was clarified as 11 September 2015, giving little time for meaningful discussion. The actions of the government amount to negotiation by public ultimatum, a tactic followed as a result of the alienation of medical and other NHS staff.

Delivering seven-day hospital care

Doctors, both juniors and consultants, provide care to patients across seven-days. The BMA is clear that we support better seven-day hospital services and that patients should receive the same high standard of care across the week³. Nine in 10 consultants work evenings and weekends for the NHS⁴, over 60 per cent of GPs regularly work outside of their normal hours⁵ and junior doctors continue to work around the clock providing care for their patients, including in some cases doctors' working days on end and 90-hour weeks.

The BMA has called on the government repeatedly to define what it means by a 'truly seven-day NHS'⁶. A Freedom of Information (Fol) request from the British Medical Journal on 25 June requested, in the absence of any public policy, details of discussions between the Department of Health and the prime minister, whose initial announcement it was, on what constitutes seven-day services in England. However, the request was declined on the grounds that the information 'relates to the formation or development of government policy'. Whilst it is accepted that there are circumstances in which government and officials must be able to discuss policy options without public scrutiny before final decisions have been made – the BMA were being asked to negotiate on contract change to deliver a service that was not defined. A subsequent Fol request for correspondence between the NHS England medical director and the prime minister's office showed that there had been 'zero correspondence' between the two⁷.

A definition of 'a seven-day health service' has now been given through a written parliamentary question⁸. It was defined by the parliamentary-under-secretary for health, Ben Gummer MP as follows:

'A seven day hospital service would mean that, by 2020, all patients admitted to hospital at the weekend will get the urgent and emergency treatment they need; and those who are already receiving treatment and care will get it to the same high standards at weekends as during the week.'

This definition reflects the service currently provided by the NHS. Urgent and emergency treatment is available 24 hours a day over seven-days a week and treatment for inpatients continues across seven-days. It should be noted that these services are provided within the existing consultant contract, including at the sites promoted as exemplars in seven-day services. A continuing conversation between local employers and NHS staff including doctors is clearly the way to continually improve NHS services. However, significant outcome variations continue across the NHS and key determinants for this include the organisation of staff and the hospital systems and processes in place⁹. Failure to invest properly in urgent and emergency care, or to be able to manage the rising workload and reducing resources in the NHS, is often at the root of such variations.

Strength of feeling amongst the medical profession

In advance of his speech on 16th July, the Department of Health media team were briefing headlines such as 'Declaring war on doctors'¹⁰. Whilst the secretary of state recognised the professionalism of doctors who work weekends in his speech, this was undermined through pre-briefing and subsequent interviews. The announcement amounted to nothing more than a wholesale attack on doctors to mask the fact that for two years the government has failed to outline any concrete proposals for introducing either more or better seven-day hospital services.

In his statement to parliament on NHS reform, the secretary of state said 'According to the DDRB, a major barrier to wider implementation is the contractual right of consultants to opt out of non-emergency work in the evenings and at weekends, which reduces weekend cover by senior clinical decision makers and puts the sickest patients at unacceptable risk.'¹¹ The medical profession reacted strongly to having their professionalism and dedication repeatedly called into question at a time when NHS staff, as highlighted by the recent social media campaign¹²,

are already providing a first-class service, every day of the week, and are, in the words of the NHS England chief executive, propping up the service with their goodwill.

Weekend admissions

In responding to the e-petition which triggered this debate, the government highlighted mortality rates of patients admitted to hospital at the weekend¹³. However, they failed to provide the supporting commentary necessary to interpret these figures and wrongly implied that contractual barriers were to blame – this is not supported by the evidence. The BMA has been clear that whilst there is evidence to support the presence of a ‘weekend effect’, there is a complete absence of evidence the cause or on how to correct for this¹⁴. In fact the study from which the government’s figure is taken states that the reasons may be ‘multifactorial’¹⁵.

This study has also recently been updated with data from 2013-14 with the so-called ‘weekend effect’ extended to include Fridays through to Mondays¹⁶. Even then the authors, including the NHS England medical director explicitly state that “It is not possible to ascertain the extent to which these excess deaths may be preventable; to assume that they are avoidable would be rash and misleading.”

Moreover, there are a large number of factors that could influence these results, such as a relative lack of support services or the known fact that patients admitted at the weekend are more sick than those admitted during the week. Analytical work should continue on this and policy decision not be diverted by assuming a single easily remediable cause. Doctors want the care they provide for sick patients to be of the same high standard, seven-days a week. Whilst factors contributing to avoidable mortality must be addressed and tackled, it should not be used to damage public confidence in the health service.

Urgent action on this has been undermined by calls for the entire NHS to be delivered on a seven-day basis without any clear prioritisation. Better access to seven-day urgent and emergency care must be the priority for investment. Any additional services, however, will require not just more doctors, but extra nurses, diagnostic and support staff. Given the current funding squeeze on NHS Trusts, the only way for many hospitals to increase the number of doctors over the weekend would be to reduce the number providing care during the week.

The current situation regarding consultant contract negotiations

The consultant contract

The BMA consultants committee decided on 10 September to re-enter negotiations with the NHSE on the consultant contract in England. Negotiations will continue over the coming months and any proposed changes to the existing contract will be put before consultants in a ballot. We are committed to reaching an agreement on a contract that delivers high quality, safe patient care across the week. The DDRB report provided some of the basis for the negotiation going forward.

Safeguards

The absence of contractual safeguards was one of the reasons negotiations over the consultant contract stalled in 2014. Now, both the government and the DDRB have accepted the need for these to guarantee both patient safety and doctors’ wellbeing. The BMA hopes that progress can be made on this point.

Extension of plain time

For consultants, as well as junior doctors, the government wants an extension of plain time working further into the evenings from 7/8pm to 10pm, “in line with other sectors.” Plain time is the time worked by doctors and other NHS staff that is paid at the standard pay rate. The DDRB noted that premium pay rates are not out of line with other sectors, and may in fact be lower for consultants in the UK than in other countries, although comparisons are difficult. We hope that this is taken into account for future negotiations.

Opt-out for routine and elective work at the weekend

The government is keen to remove the clause in the contract that provides consultants with an opt-out for providing non-urgent routine and elective care at the weekend. The government has sought to portray this as a barrier to seven-day services. However, with nine in 10 consultants working at the weekend, the contractual clause is clearly not a barrier to urgent and emergency care being delivered across seven-days. Doctors undertake the highest proportion of weekend working amongst any staff group in the NHS¹⁷. The BMA has always been willing to negotiate on this clause but removing it would require adequate safeguards within the contract – as highlighted in the DDRB report.

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References

¹ The Dentists’ and Doctors’ Remuneration Body, 16 July 2015, *Contract reform for consultants and doctors and dentists in training – supporting healthcare services seven days a week*. Available at:

<https://www.gov.uk/government/publications/contract-reform-for-consultants-and-doctors-and-dentists-in-training-supporting-healthcare-services-seven-days-a-week>

² Rt Hon Jeremy Hunt MP, Secretary of State for Health, 16 July 2015, *Making healthcare more human-centred and not system-centred*. Available at: <https://www.gov.uk/government/speeches/making-healthcare-more-human-centred-and-not-system-centred>

³ More on the BMA’s position on seven-day services is available [here](#)

⁴ More information on the BMA’s research into consultants’ on-call work is available [here](#).

⁵ The latest figures from the BMA’s quarterly tracker survey found that 61.1 per cent of GPs reported that they ‘always’ work outside of their regular hours, with 30.2 per cent reporting that they ‘sometimes’ do this. More information can be found [here](#)

⁶ The BMA has [challenged David Cameron](#) to answer seven questions over his plans for seven-day NHS services.

⁷ British Medical Journal, 28 August 2015, *Cameron had no formal correspondence with Keogh before promising a seven day NHS*. Available at: <http://www.bmj.com/content/351/bmj.h4637>

⁸ House of Commons Hansard, 8 September: NHS: Working Hours: Written question - 8064

⁹ NHS London, September 2011, *Adult emergency services: Acute medicine and emergency general surgery, case for change*. Available at: http://www.londonhp.nhs.uk/wp-content/uploads/2011/09/AES-Case-for-change_September-2011.pdf

¹⁰ House of Commons Hansard, 16 July 2015 : Column 1103

¹¹ House of Commons Hansard, 16 July 2015: Column 1102

¹² BBC News, 18 July 2015, '#ImInWorkJeremy: NHS staff post weekend working photos' Available at <http://www.bbc.co.uk/news/uk-33578990>

¹³ Government response to petition 'To debate a vote of no confidence in Health Secretary the Right Hon Jeremy Hunt' 24 July 2015. Available at <https://petition.parliament.uk/petitions/104334>

¹⁴ British Medical Association, December 2014, *Best for patients, fair for doctors, sustainable For the NHS*. Available here: <http://bma.org.uk/working-for-change/in-depth-junior-and-consultant-contract/ddrb-evidence>

¹⁵ Freemantle N, Richardson M, Wood J, et al. Weekend hospitalization and additional risk of death: an analysis of inpatient data. *J R Soc Med* 2012;105:74-84.

¹⁶ British Medical Journal, 05 September 2015, *Increased mortality associated with weekend hospital admission: a case for expanded seven day services?* *BMJ* 2015; 351 doi: <http://dx.doi.org/10.1136/bmj.h4596> (Published 05 September 2015) Cite this as: *BMJ* 2015;351:h4596

¹⁷ NHS Employers, 06 July 2015, NHS Pay Review Body's observations on Agenda for Change and seven-day services, p43, table 5.1. Available at <http://www.nhsemployers.org/your-workforce/pay-and-reward/pay/agenda-for-change-pay/nhs-pay-review-body/nhs-pay-review-body-observations-on-agenda-for-change-and-seven-day-services>