

## **Withdrawal of the joint statement on the application of contractual protections during the pandemic, relating to the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016**

During the exceptional circumstances of the COVID-19 period, the BMA and NHS Employers have continued to work constructively, and at pace, to input into the government's emergency response in producing supporting guidance and updates on emerging issues and challenges.

As part of this work, the BMA and NHS Employers published a [joint statement](#) on the application of the contractual protections of the 2016 TCS during the pandemic. The statement recognised that in order to meet the immense challenges presented by COVID-19, it may be necessary for some employers to put in place new working arrangements that were not compliant with the entirety of the national terms and conditions of service, after exhausting all other options to ensure safe patient care.

The joint statement was always intended to be an extraordinary, but temporary provision, to aid the NHS in its response to the pandemic, although the health and wellbeing of junior doctors remained a key priority. The pandemic has placed significant pressure on junior doctors and without allowing for adequate rest and recovery, the prospect of large-scale fatigue and burnout is inevitable.

As the exceptional pressures placed on the NHS in England, directly related to the rapid peak of the COVID-19 pandemic, have reduced, in the interests of junior doctor health and wellbeing, the BMA wrote to NHS Employers to provide our one month's notice of our withdrawal from the statement. In accordance with the statement, the withdrawal will take effect from 5<sup>th</sup> August. At which point the temporary arrangements referred to in the joint statement will terminate with immediate effect and all rotas must be compliant with the terms and conditions of service for NHS doctors and dentists in training (England) 2016 from the 5<sup>th</sup> of August onwards.

Junior doctors have worked incredibly hard over the course of this pandemic, in many cases working above and beyond their contracted shift patterns to ensure the NHS was able to respond effectively to the hugely increased pressures during the surge.

The professionalism and exceptional dedication demonstrated by our colleagues throughout recent weeks and months, in rapidly adapting to new working patterns which placed considerable demands on junior doctors throughout the country, has been remarkable. These efforts have ensured outstanding patient care was maintained throughout the NHS in its response to the pandemic.

It is clear that these demands on junior doctors were not sustainable indefinitely. It is therefore crucial that all junior doctors are able to go back to rotas that adhere to the contractual safety limits as soon as possible and that employers again adhere to the safe working hours restrictions and rest requirements as set out in the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 (TCS).



As a result, all rotas for junior doctors in England commencing on or after the 5th August 2020, must comply with all the contractual rest and working limits that are within the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016. This requirement applies to all currently non-compliant rotas that are in place, whether the doctors on them are rotating in August 2020 or not.

The BMA is cognisant that the pressures associated with Covid-19 have not gone away, and we know that the NHS will continue to be under considerable strain for the foreseeable future; we know that junior doctors will continue to work incredibly hard sustaining the NHS response to these pressures.

It is vital that lessons are learned from our experience so far on what we can do differently to ensure rotas can be properly and safely staffed within contractual requirements to ensure that the NHS can swiftly and ably respond to any future surges in Covid-19 related demands, and that patients continue to receive safe, appropriate and timely care. The BMA will continue to work with other stakeholders to keep these issues under constant review, based upon the latest understanding of the pressures that Covid-19 is placing on the NHS.

A handwritten signature in black ink, appearing to read 'SH', is positioned above the name of the signatory.

Dr Sarah Hallett  
Chair of BMA Junior Doctors Committee