Chief Executive
Sir David Dalton

Salford Royal NHS
NHS Foundation Trust
University Teaching Trust

safe • clean • personal

3 February 2016

Dear Doctor,

At the beginning of January, at my request, you received a letter by email outlining the issues associated with the introduction of a new contract and some non-contractual issues that are an important part of your training and working life.

Since then, in addition to the discussions I have been having with the BMA, I have listened to and read the views of many individual trainees. It is clear that there is a high degree of discontent which has been fermenting for some years and that the proposed new contract has brought this to the surface. I am aware too that finding a single contract solution that would best suit people at different stages of their lives and training who have chosen different career paths in medicine (in hospital, primary care or public health), was always going to be a challenge.

There are almost 100 separate points which have been considered as part of the proposed contract, which illustrates the complexity we are dealing with. There is a lot written and spoken of in news and social media and much of that gives polarised opinion about the views of trainees and NHS Employers with little consideration of the full, wider picture. The complexities are most often 'explained' in very simple terms and single issues are frequently taken out of context adding unnecessarily to existing anxiety and uncertainty. I am writing now to tell you more about the contract that I have been attempting to shape to best suit the needs of doctors in training, our patients and the NHS in England.

Before I provide this detail, let me be clear that I firmly believe we must value the role of all staff in the NHS - including our doctors in training. Everyone's contribution remains crucial to providing safe care to our patients and meeting clinical standards reliably, across all days of the week.

The contract I have been attempting to shape over the last month would have the following features:

- significant safeguards would be introduced to prevent excessive hours being worked and to prevent excessive consecutive days/evenings/nights to be worked;
- it would pay trainees for both the level of responsibility and for every hour worked, including occasions when shifts overrun;
- it would improve the level of basic pay, removing the 'yo-yo' variations experienced when trainees move from one shift pattern and banding to another;
- for existing trainees, in three-quarters of cases, during the period of training, the level of pay would increase, and no trainee would experience a pay cut;
- supplementary payments would be made to trainees working weekends, evenings and nights
- availability payments would be made to those providing non-resident on-call;
- it would ensure that trainees electing for an academic/research component of their training, would receive supplementary pay to create equivalence to a pay point, to avoid pay loss;
- improvements would be made to protect time for training and to ensure that the welfare of trainees was improved through, eg, reasonable notice of deployment for rotational placements;
- new doctors entering training would be paid according to the new contract, knowing that average earnings for average hours worked, would not be less than they are now;

I have been willing to consider each and every element of the c.100 points for consideration within the proposed contract and on many of them I have improved upon the positon to the BMA, previously put forward by NHS Employers. In particular, I would comment on the following:

Safety

The current contract does not provide all the safeguards we would want for trainee doctors. We have reached agreement on a package of measures to protect doctors-in-training against working unsafe hours, which go beyond the European Working Time Directive. These include: that no doctor will ever be rostered consecutive weekends; the maximum number of consecutive nights will be reduced from 7 to 4; the maximum number of consecutive long days will be reduced from 7 to 5; and the maximum number of consecutive days will be reduced from 12 to 8. We also agreed a limit of 48 hours worked on average over 26 weeks, and an absolute contractual limit of 56 hours where a trainee has opted out of the Working Time Directive. These and other changes all provide a substantial improvement for your safe working hours and wellbeing, and also for patient safety.

We also agreed to introduce a new role of 'Guardian' within every Trust, who will provide safeguards against excessive working hours in every workplace. The Guardian will have the authority to impose fines on an employer for breaches to agreements in the contract and working schedules, for example, if a doctor is found to be working more than 48 hours on average. The level of the fine to the Guardian will be based on the excess hours worked x 400% These fines will be invested in educational resources and facilities for trainees and these will be over and above monies already allocated to those areas. The doctor will be paid for the excess hours worked at a rate over and above the prevailing rate and this amount will be deducted from the 400% fine held by the guardian. We have not been able to agree the level of the payment to the doctor.

Education and Training

We have also discussed the shortcomings in training support for trainee doctors. I am very aware that existing contractual arrangements scarcely reference training – instead focusing on the service contribution that trainee doctors make – which we are committed to addressing. Issues include how training opportunities can be missed because of work pressures, the inflexibility around leave and the insufficient notice of training placements which make it difficult for doctors to plan their lives, and the lack of consultant presence at weekends which may contribute to a poorer training experience.

We agreed on a number of new measures to improve the training programme, including: ensuring proper notice of forthcoming rotational placements; exception reporting applying to missed educational opportunities; and a review of access to flexible training.

Pay

Much of the commentary on the new contract has focussed on the extent to which it enables safe and reliable care across all days of the week – and assuring the delivery of the published clinical standards across 7 days remains a crucial issue. What is not so often referred to are the anomalies of the current contract, for example, banding system payments that do not accurately match the total number of hours worked, nor exactly when unsocial hours are worked, by individual doctors. The current contract also pays annual increments linked to time served with no relationship to increases in responsibility.

The BMA and NHS Employers agree that the inequality, created by the current banding system, should be addressed. Currently it allows doctors on the same banding to be paid the same for different levels of unsocial hours working. For example, under the current contract, doctors working anything between 41 and 48 hours can receive the same payment for very different amounts of unsocial hours working; doctors working rotas without night shifts can get paid the same as those working rotas with them; and

a rota with no Sunday working can attract the same pay as one that includes it. It does not make sense for these anomalies to continue and the proposed contract deals with these.

Following an improved offer made on 16 January, the proposed new contract allows every doctor to be paid for every hour worked with supplements for Saturday evening (from 5pm), night (from 9pm) and Sunday working – and for those who work for Saturdays more frequently (those working 1:3 or more), to receive additional payment for all the time they work on Saturdays. The substantive outstanding area of disagreement is about payment for evening and Saturday working. I have consistently made clear that the Employers' side would wish to talk further about this issue in an effort to reach a compromise - and I remain disappointed that the BMA has refused to negotiate on this issue. It seems to me that an inability by the BMA to find any room for manoeuvre on this outstanding issue is not helpful, if both sides are to reach a fair settlement.

I am pleased that we have reached agreement with the BMA on a new pay structure based on five pay points with pay progression linked to increased responsibility. The BMA has asked that the greatest rises occur at the earlier stages of the training career ladder – and we have agreed this. It has also been agreed that GP trainees should receive a significant pay supplement, of over £8000, to ensure pay parity with hospital based trainees, and that trainees electing for academic/research roles should have their pay protected to recognise their longer training path. Employers have proposed that trainees changing to 'shortage specialties' should have their pay protected, and that there should be an additional pay premia (£1500) paid to A&E ST4+ and Psychiatry ST1+; these additional payments have not been supported by the BMA, preferring 'fair pay' for all.

Payments for non-resident on call have also not been agreed. These staff are not required to be at their place of work for the period of on call duty unless they are required to attend, in which case they are paid full rates for the hours that they work. Our offer of a 10% maximum is less than the BMA would have liked at 20%, but it is more than that paid to consultants (or staff, associate specialist & specialist doctors), and is more than our original offer. Again it is unfortunate that we have not been able to reach agreement in negotiation with the BMA on what that rate should be.

It is clear that what is needed is a commitment on both sides to continue to talk on the key remaining issues and to find the room for settlement. Failure to do this will mean that no agreement can be reached. This would be sad in any circumstances but particularly so when there has been so much progress in the last month. It is really disheartening that at the end of last week the BMA declined an invitation to talk about the key outstanding issues (ie unsocial hours definition and associated payments), and have so far stated that they are unwilling to negotiate and reconsider these points at all.

I came into these negotiations with a clear view - that the contract should be safe and fair for trainee doctors and effective and affordable for the NHS. I have served the NHS for over 36 years and hold firm to its values. You can be assured that I would never act in a way which compromised those values and that I strive to treat all staff in a fair and reasonable way. Given the high level of unhappiness, I have recommended that the government, the Academy of Royal Colleges, Health Education England and NHS Employers commission a review of the long-standing concerns with recommendations to all parties for action which can improve the welfare and morale of trainees.

I sincerely hope, for the sake of our patients, that we can find a way to move forward and quickly resolve our differences.

Yours sincerely

Sir David Dalton

3rd Floor Mayo Building, Stott Lane, Salford, M6 8HD

Chief Executive

3rd Floor Mayo Building, Stott Lane, Salford, M6 8HD