



**BRIEFING PAPER**

Number CBP7314, 26 September 2016

# Junior doctor contracts in England

By Thomas Powell

**Inside:**

1. Summary
2. Background to the contract negotiations
3. 18 May 2016 contract agreement and BMA ballot rejection
4. The contract announced on 11 February 2016
5. Further reading



# Contents

<b>1. Summary</b>	<b>3</b>
<b>2. Background to the contract negotiations</b>	<b>6</b>
The BMA response in September 2015	7
ACAS negotiation and industrial action	8
The contract announced in February 2016	9
<b>3. 18 May 2016 contract agreement and BMA ballot rejection</b>	<b>11</b>
<b>4. The contract announced on 11 February 2016</b>	<b>18</b>
<b>5. Further reading</b>	<b>20</b>

# 1. Summary

Following three years of on-and-off negotiations about the introduction of a new contract for junior doctors an agreement was reached between the BMA, NHS Employers and the Secretary of State for Health on 18 May 2016. The agreement was subject to a BMA referendum of junior doctor members. On 5 July 2016 it was announced that junior doctors had rejected the contract offer, with 58 per cent of junior doctors voting against, while 42 per cent voted to accept. The turnout was 68 per cent.<sup>1</sup>

On 31 August 2016 the BMA Junior Doctors Committee announced further industrial action and the following day confirmed there would be 5-day strikes, including the withdrawal of emergency cover, in September, October, November and December 2016 (and due to occur between 8am and 5pm on each day of industrial action). On 5 September the BMA suspended the strike planned for 12-16 September after NHS leaders raised concerns about the ability of NHS to make contingency plans in time. On 24 September the BMA suspended strike action on the remaining dates:

- Wednesday 5 to Friday 7 October and Monday 10 and Tuesday 11 of October 2016 (the weekend of 8/9 October is not included in the planned industrial action);
- Monday 14 to Friday 18 November 2016; and
- Monday 5 to Friday 9 December 2016.

While the [BMA Junior Doctors Committee](#) said it would not go ahead with the industrial action, it confirmed its continuing opposition to the implementation of the contract and said it is “planning other actions over the coming weeks”.

The Secretary of State has made statements to Parliament on the junior doctor contract, on 6 July 2016, following the BMA ballot rejecting the contract, and on 5 September 2016, following the BMA announcement of plans for industrial action. In both statements he confirmed the Government’s intention to implement the contract agreed in May in a phased process between October 2016 and October 2017 [see [HC Deb 6 July 2016](#) and [HC Deb 5 September 2016](#)]

The 18 May 2016 agreement came at the end of 10 days of negotiations at ACAS, brokered by the Academy of Medical Royal Colleges. It followed a protracted dispute over the terms of the contract, which has seen junior doctors taking industrial action on five occasions, earlier in 2016.

Under the agreement the increase in basic pay is reduced and weekend allowances adjusted to increase in-line with the number of weekends worked. Those working one in eight weekends or fewer would get nothing for working Saturday or Sunday. That compares to Saturday

---

<sup>1</sup> [BMA, Junior doctors reject proposed contract, 5 July 2016](#)

evening work and all-day Sunday attracting a premium payment under the terms which were to have been imposed.

There were also additional commitments to protect doctors with caring responsibilities, to ensuring safe working for doctors, to protect whistle blowers, to “appropriately compensate” overtime, and to introduced new “Flexible Pay Premium” to support recruitment.

Further detail can be found in the [Junior Doctors Contract Terms and Conditions document](#), updated on 6 July 2016, but key points include:

- An increase in basic pay of between 10% and 11% (down from 13.5% announced on 11 February 2016).
- A weekend allowance of between 3% and 10% paid when any junior doctor is rostered to work more than 6 weekends per annum. The allowance, applied as a percentage of basic pay, will increase as the number of weekends worked increases (from 3% for working 1 weekend in 8 up to 10% for doctors working 1 weekend in 2).
- A new system for overnight pay, with shifts that start at or after 8pm, last more than 8 hours and finish at or by 10am the following day paid at an enhanced rate of 37% (the Government’s previous position was to pay any hours between 9pm and 7am at an enhanced rate of 50%).
- An on call allowance is applied as 8% of basic pay over and above any weekend allowance payable.
- A clarification of the role of Guardian of Safe Working, including a requirement to report on rota gaps at least once a quarter and to levy additional fines on trusts where breaks are missed on more than 25% of occasions across a 4 week period.
- An increase to the flexible pay premia paid to those training in emergency medicine, psychiatry and oral and maxillofacial surgery, to £20,000 (£5,000 per annum over a standard four year training programme).
- Employers to appropriately compensate individual doctors working beyond scheduled hours to secure patient safety, where authorised by an appropriate person.

The parties also agreed to number of issues outside of the contract including:

- To remove, as far as possible, disadvantages faced by those who take time out of training due to, for example, caring responsibilities.
- Health Education England to review the process for training placement applications, to consider joint applications by couples and defined travel times for those with caring responsibilities.
- While all NHS staff currently have protected rights to raise concerns about their employers under whistleblowing legislation, junior doctors will be given the right to raise concerns regarding the work of HEE without detriment, from either their employer or HEE.

The negotiations, planned industrial action, and implementation of the new contract only relate to junior doctors in England. The Scottish Government has repeated assurances to the BMA made in August 2015

## 5 Junior doctor contracts in England

that it will not be seeking to impose any new arrangements on trainees in Scotland. In September 2015, Welsh Government officials issued a statement to BMA Cymru Wales indicating that they will retain the current junior doctor contract in Wales. The Northern Ireland health minister, Simon Hamilton, has said he would like to develop a negotiated solution for Northern Ireland.

This briefing sets out some background to the contract negotiations and some of the key measures in the contract agreement announced in May 2016, and in previous contract proposals in February 2016. Further information on junior doctor contract negotiations can be found on the [Department of Health](#), [NHS Employers](#) and [BMA](#) websites. The further reading section of this briefing also provides links to coverage of the most recent developments. See the further reading section of this briefing for coverage of the most recent developments.

## 2. Background to the contract negotiations

### **The current junior doctor contract**

Full time junior doctors' pay consists of a basic salary for the standard 40 hours worked in a week, plus a variable supplement to reflect how many more hours are being worked on average, the type of working pattern, the frequency of extra duty and the antisocial nature of the working arrangements. Full details of total salaries for doctors in full time training are available to download in the NHS Employers [2015-2016 pay circular](#) including:

- banding supplements
- total salaries for trainees working less than 40 hours a week
- less than full time (LTFT) trainees pay arrangements

The [BMA website](#) also provides guidance on current junior doctor pay.

The current junior doctor contract was introduced in 2000 and sought to improve working conditions for junior doctors by decreasing hours and ensuring minimum rest breaks. The Government has described the current contracts as "outdated" and "unfair" and introduced and started scoping work to change the contract in 2011. The Government and NHS Employers have stated that their key aims are to improve patient outcomes across the week and to reward greater responsibility and professional competence.

In 2013 NHS Employers and the BMA agreed "heads of terms" (HoT) to achieve a new contract for junior doctors.<sup>2</sup> The HoT set out a framework for negotiation on the design of a new contract and covered working hours, pay, quality of life and training. Later in 2013 the Department of Health, with the other UK health departments, mandated NHS Employers to begin negotiations with the BMA on changes to the junior doctor contract, and the consultant contract.<sup>3</sup> This specified that revised contracts must be broadly cost neutral.

Negotiations between NHS Employers and the BMA junior doctors committee stalled in October 2014. The BMA expressed a number of concerns about the proposed contract changes, including concerns that doctors' welfare and patient safety are not being sufficiently considered by NHS Employers.

After progress with the negotiations stalled, the Health Secretary asked the Review Body on Doctors' and Dentists' Remuneration (DDRB) and the NHS Pay Review Body (NHS PRB) for their observations on the progress made in the negotiations. In particular the DDRB was asked to make recommendations about how contract reform support the delivery of seven day services.

The DDRB's report on [Contract reform for consultants and doctors & dentists in training – supporting healthcare services seven days a week](#) was published in July 2015. Ministers' responded that they were pleased

<sup>2</sup> Draft Heads of Terms for Negotiations to Achieve a New Contract for Doctors and Dentists in Training. BMA, NHS Employers, June 2013. Available [here](#).

<sup>3</sup> [NHS Employers website: medical contract reform](#)

that the DDRB had endorsed the key principles proposed by the Government and NHS Employers.<sup>4</sup>

In July 2015, the Health Secretary set a deadline of mid-September for the BMA to re-enter negotiations. The Government also confirmed its intention to impose the new junior doctor contract in time for the new intake in August 2016, if a negotiated settlement was not reached.

### The BMA response in September 2015

The BMA junior doctors committee decided not to re-enter negotiations by the Government's September deadline; the Chair of the BMA Council Dr Mark Porter said:

In the face of proposals from the UK Government which amount to imposition in all but name, the UK junior doctors committee has decided not to re-enter contract negotiations.

The BMA believes that the changes currently being proposed are unsafe for patients, unfair to doctors and undermine the future of the NHS.

This is the time for doctors to stand together as one profession and unite in defence of doctors' working lives so that we can continue to provide safe, high-quality care for all our patients.<sup>5</sup>

The BMA junior doctors committee expressed a number of concerns about the new contract<sup>6</sup>, and called on the Government to withdraw its proposals for change.<sup>7</sup> In particular, the BMA had concerns that:

- the replacement of the banding system will lead to a significant cut in overall pay for many junior doctors<sup>8</sup>;
- that the extension of plain time working to evenings and Saturdays will have an unfair impact on specialities that require more work at these times<sup>9</sup>;
- that changes will lead to increasing numbers of doctors leaving the NHS at a time when it already faces significant recruitment and retention challenges.<sup>10</sup>

The presidents of 11 Royal Colleges have also written to the Health Secretary, to raise concerns about the potential impact of the new junior doctor contract on recruitment and retention.<sup>11</sup>

---

<sup>4</sup> Written statement, Reports of Review Body on Doctors' and Dentists' Remuneration and NHS Pay 16 July 2015, HCWS114. See also [DDRB recommendations - analysis for juniors](#), BMA

<sup>5</sup> BMA, [Junior and consultant contract negotiations](#), [accessed 9 September 2015]

<sup>6</sup> *Ibid.*

<sup>7</sup> BMA, [Junior doctors reject government's heavy handed attempts to force through a new contract without meaningful negotiations](#), 13 August 2015

<sup>8</sup> Guardian, [Junior doctors condemn new contract they say could cut pay by 40%](#), 18 September 2015

<sup>9</sup> BBC, [What is the junior doctors row about?](#), 29 September 2015

<sup>10</sup> Guardian, [Thousands of NHS doctors apply to be able to work abroad amid contract changes](#), 25 September 2015

<sup>11</sup> Guardian, [Junior doctor contracts are threat to NHS, warn Royal Colleges](#), 24 September 2015

## ACAS negotiation and industrial action

On 26 September 2015 the BMA announced it would ballot junior doctors on industrial action. The results of the ballot were announced on 19 November 2015: 98% supported strike action (based on turnout of 76%).

During the ballot a detailed offer for a new contract was published by NHS Employers, on 4 November 2015<sup>12</sup>; this offer was rejected by the BMA.<sup>13</sup> Concessions in the November offer included plain-time working ending at 7pm on Saturdays instead of 10pm, and pay protection until 2019.

The BMA had planned for junior doctors to provide emergency care only on 1 December 2015, and for a full walk-out from 8am to 5pm on 8 and 16 December. The BMA also called for the involvement of the Advisory, Conciliation and Arbitration Service (ACAS) and talks between the BMA, NHS Employers and the Department of Health began on 26 November. An agreement was reached on 30 November for the BMA to suspend its planned industrial action, and for the Department of Health to temporarily suspend implementation of a contract without agreement. In a statement to the House of Commons on 30 November 2015 the Health Secretary Jeremy Hunt announced a potential agreement to “allow a time limited period during which negotiations can take place, and during which the BMA agrees to suspend strike action and the government agrees not to proceed unilaterally with implementing a new contract”.<sup>14</sup>

On 30 November 2015 ACAS published a statement from the BMA, NHS Employers and the Department of Health, setting out the terms of the agreement to return to time-limited negotiations. This also notes that the timeframe for the BMA to commence any industrial action, should the negotiations break-down, has been extended to 13 January 2016:

“Following productive talks under the auspices of ACAS, the BMA, NHS Employers and the Department of Health are all agreed that a return to direct and meaningful negotiations in relation to a new contract for junior doctors is the right way forward. We intend to reach a collaborative agreement, working in partnership to produce a new contract for junior doctors, recognising their central role in patient care and the future of the NHS.

All parties are committed to reaching an agreement that improves safety for patients and doctors and therefore NHS Employers have agreed to extend the timeframe for the BMA to commence any industrial action by four weeks to 13 January 2016 at 5pm, to allow negotiations to progress. Within that timetable, the BMA agrees to temporarily suspend its proposed strike action and the

<sup>12</sup> [Junior doctors' contract: the new offer](#), NHS Employers, 4 November 2015; and [Written Statement to Parliament: Junior doctors' contract](#), Rt Hon Jeremy Hunt MP, 4 November 2015

<sup>13</sup> [BMA presses ahead with juniors' ballot](#), BMA, 5 November 2015

<sup>14</sup> [HC Deb 30 November 2015 c32](#)

Department of Health agrees similarly to temporarily suspend implementation of a contract without agreement.

All parties acknowledge that they share responsibility for the safety of patients and junior doctors, which must be paramount. In reaching this agreement to return to negotiations the BMA acknowledge the wish of NHS Employers and the Department of Health to agree and implement a new contract without undue delay. All sides wish to achieve a contractual framework that provides fair reward and a safe working environment for junior doctors throughout the week.”<sup>15</sup>

An ACAS memorandum set out further detail on the basis on which the parties would try to progress the agreement to return to negotiation and confirmed that the NHS Employer offer published on 4 November 2015 would be the basis for further negotiation.

A further offer was made by NHS Employers on 4 January 2016. The revised offer included additional measures to address concerns from junior doctors about potentially unsafe working hours. These included the establishment of “safe working guardians” at each hospital trust. This was rejected by the BMA, and it gave notice of industrial action on the following dates:

- 8am Tuesday 12 January to 8am Wednesday 13 January (emergency care only)
- 8am Tuesday 26 January to 8am Thursday 28 January (emergency care only)
- 8am to 5pm Wednesday 10 February (full withdrawal of labour)

The BMA and NHS Employers issued statements in early January, setting out their views on how the negotiations had progressed, and the issues on which they could not reach agreement (see page 10). Following the “emergency only” industrial action on 12 January both sides returned to ACAS to continue talks and the BMA called off the 48 hour “emergency only” industrial action planned for 26 to 28 January. After further talks broke down on 1 February 2016 the BMA announced that the strike planned for 10 February would provide for junior doctors to provide emergency care but would run for 24 hours, from 8am 10 February to 8am 11 February.

### **The contract announced in February 2016**

On 11 February 2016 the Health Secretary told the Commons a negotiated solution was not realistically possible and as a result the Government would proceed with the introduction of a new contract for junior doctors. The new contract will be implemented for new junior doctors and those junior doctors changing roles from 3 August 2016. Jeremy Hunt told the Commons:

“Along with other senior NHS leaders and supported by NHS Employers, NHS England, NHS Improvement, the NHS Confederation and NHS Providers, [chief negotiator Sir David

---

<sup>15</sup> ACAS, [Agreement between BMA, DH and NHS Employers](#), 30 November 2015

Dalton] has asked me to end the uncertainty for the service by proceeding with the introduction of a new contract that he and his colleagues consider safer for patients and fair and reasonable for junior doctors. I have therefore today decided to do that.”<sup>16</sup>

He said the negotiating process had also uncovered some “wider and more deep-seated issues relating to junior doctors’ morale” and announced a government review to address wider concerns from doctors.

The then Shadow Health Secretary, Heidi Alexander, responded that Jeremy Hunt had failed to convince junior doctors and the public of his grounds for change:

Everyone, including the BMA, agrees with the need to reform the current contract, but hardly anyone thinks the need to do that is so urgent that it justifies imposition, and all the chaos that will bring.<sup>17</sup>

The then Chair of the BMA Junior Doctors’ Committee, Dr Johann Malawana responded that:

“...junior doctors cannot and will not accept a contract that is bad for the future of patient care, the profession and the NHS as a whole, and we will consider all options open to us.”<sup>18</sup>

On 23 February 2016 the BMA announced plans for three 48-hour “emergency cover only” strikes, starting at 8am on 9 March, 6 April and 26 April. On 23 March the BMA announced that the industrial action scheduled to start on 26 April would change from 48-hour emergency care only to a full withdrawal of labour by junior doctors between the hours of 8am and 5pm on Tuesday 26 and Wednesday 27 April (18 hours in total).<sup>19</sup>

On 25 April 2016, Jeremy Hunt gave a [statement to Parliament](#) on NHS 7 day services and the impact of industrial action by junior doctors.

On 31 March 2016 NHS Employers published detail of the February junior doctors’ contract, setting out the terms and conditions of service to be imposed from August 2016.<sup>20</sup>

---

<sup>16</sup> [HC Deb 11 February 2016 c1763](#)

<sup>17</sup> [HC Deb 11 February 2016, c1765](#)

<sup>18</sup> [BMA, Contract imposition 'a total failure'](#), 11 February 2016

<sup>19</sup> [BMA website](#)

<sup>20</sup> [NHS Employers, Junior doctors' full contract published, 31 March 2016](#)

### 3. 18 May 2016 contract agreement and BMA ballot rejection

On 5 May 2016 Professor Dame Sue Bailey, Chair of the Academy of Royal Colleges, called for a 5 day pause in the introduction of the new contract, to enable fresh talks.<sup>21</sup> Following an extended ten days of intensive talks at ACAS, on 18 May 2016 an agreement on contract terms was made between the Government, NHS employers, and the BMA.<sup>22</sup>

Commenting on the 18 May 2016 agreement Dr Malawana said:

"Following intense but constructive talks, we are pleased to have reached agreement.

"Junior doctors have always wanted to agree a safe and fair contract, one that recognises and values the contribution junior doctors make to the NHS, addresses the recruitment and retention crisis in parts of the NHS and provides the basis for delivering a world-class health service.

"I believe that what has been agreed today delivers on these principles, is a good deal for junior doctors and will ensure that they can continue to deliver high-quality care for patients. This represents the best and final way of resolving the dispute and this is what I will be saying to junior doctors in the weeks leading up to the referendum on the new contract."

Jeremy Hunt said:

"We welcome this significant agreement which delivers important changes to the junior doctors' contract necessary to deliver a safer seven day NHS.

"The talks have been constructive and positive and highlighted many areas outside the contract where further work is necessary to value the vital role of junior doctors and improve the training and support they are given. This deal represents a definitive step forward for patients, for doctors, and for the NHS as a whole."<sup>23</sup>

On 27 May 2016, NHS Employers published the terms and conditions of the contract agreement (updated 16 June and 6 July 2016).<sup>24</sup> Key points include:

- An increase in basic pay of between 10% and 11% (down from 13.5% announced on 11 February 2016).
- A weekend allowance of between 3% and 10% paid when any junior doctor is rostered to work more than 6 weekends per annum. The allowance, applied as a percentage of basic pay, will

---

<sup>21</sup> <http://www.bbc.co.uk/news/health-36209321>

<sup>22</sup> On 18 May 2016, [ACAS issued a statement](#) setting out the terms of an agreement presented to the government and NHS Employers, and to the BMA. This was agreed by the parties, subject to securing the support of BMA junior doctor members in a referendum.

<sup>23</sup> *Ibid.*

<sup>24</sup> NHS Employers, [Junior Doctors Contract Terms and Conditions document](#), updated 6 July 2016,

increase as the number of weekends worked increases (from 3% for working 1 weekend in 8 up to 10% for doctors working 1 weekend in 2).

- A new system for overnight pay, with shifts that start at or after 8pm, last more than 8 hours and finish at or by 10am the following day paid at an enhanced rate of 37% (the Government's previous position was to pay any hours between 9pm and 7am at an enhanced rate of 50%).
- An on call allowance is applied as 8% of basic pay over and above any weekend allowance payable.
- A clarification of the role of Guardian of Safe Working, including a requirement to report on rota gaps at least once a quarter and to levy additional fines on trusts where breaks are missed on more than 25% of occasions across a 4 week period.
- An increase to the flexible pay premia paid to those training in emergency medicine, psychiatry and oral and maxillofacial surgery, to £20,000 (£5,000 per annum over a standard four year training programme).
- Employers to appropriately compensate individual doctors working beyond scheduled hours to secure patient safety, where authorised by an appropriate person.

The parties also agreed to number of issues outside of the contract including:

- To remove, as far as possible, disadvantages faced by those who take time out of training due to, for example, caring responsibilities.
- Health Education England to review process for training placement applications, to consider joint applications by couples and defined travel times for those with caring responsibilities.
- While all NHS staff currently have protected rights to raise concerns about their employers under whistleblowing legislation, junior doctors will be given the right to raise concerns regarding the work of HEE without detriment, from either their employer or HEE.

In a statement to Parliament on 19 May 2016 Jeremy Hunt set out the Government's rationale for the introduction of a new contract for junior doctors:

The contract inherited by the Government had a number of features badly in need of reform, including low levels of basic pay as a proportion of total income, which made doctors rely too heavily on unpredictable unsocial hours supplements to boost their income; automatic annual pay rises even when people took prolonged periods of leave from the NHS; an unfair banding system that triggered payment of premium rates to every team member even if only one person had worked extra hours; high premium rates payable for weekend work that made it difficult to roster staff in line with patient need; and risks to patient safety,

## 13 Junior doctor contracts in England

with doctors sometimes required to work seven full days or seven full nights in a row without proper rest periods.

The Government have always been determined that our NHS should offer the safest, highest quality of care possible, which means a consistent standard of care for patients admitted across all seven days of the week. The new contract agreed yesterday makes the biggest set of changes to the junior doctors contract for 17 years, including by establishing the principle that any doctor who works less than an average of one weekend day a month—Saturday or Sunday—should receive no additional premium pay, compensated for by an increase in basic pay of between 10% and 11%; by reducing the marginal cost of employing additional doctors at the weekend by about a third; by supporting all hospitals to meet the four clinical standards most important for reducing mortality rates for weekend admissions by establishing a new role for experienced junior doctors as senior clinical decision makers able to make expert assessments of vulnerable patients admitted to or staying in hospital over weekends; and by removing the disincentive to roster enough doctors at weekends by replacing an inflexible banding system with a fairer system that values weekend work by paying people for actual unsocial hours worked, with more pay for those who work the most.

The Government also recognise that safer care for patients is more likely to be provided by well-motivated doctors who have sufficient rest between shifts and work in a family-friendly system. The new contract and ACAS agreement will improve the wellbeing of our critical junior doctor workforce by reducing the maximum hours a doctor can be asked to work in any one week from 91 to 72; reducing the number of nights a doctor can be asked to work consecutively to four, and the number of long days a doctor can be asked to work to five; introducing a new post, a guardian of safe working, in every trust to guard against doctors being asked to work excessive hours; introducing a new catch-up programme for doctors who take maternity leave or time off for other caring responsibilities; establishing a review by Health Education England to consider how best to allow couples to apply to train in the same area and to offer training placements for those with caring responsibilities close to their home; giving pay protection to doctors who switch specialties because of caring responsibilities; and establishing a review to inform a new requirement for trusts to consider caring and other family responsibilities when designing rotas.<sup>25</sup>

The 18 May 2016 agreement was subject to a BMA referendum of junior doctor members. On 5 July 2016 it was announced that the ballot had rejected the contract agreement, with 58 per cent of junior doctor voting against, while 42 per cent voted to accept (the turnout was 68 per cent). The BMA junior doctors' committee chair Dr Johann Malawana, who had backed the deal, announced his resignation following the result. Dr Malawana said:

The result of the vote is clear, and the government must respect the informed decision junior doctors have made. Any new contract will affect a generation of doctors working for the NHS in England, so it is vital that it has the confidence of the profession.

---

<sup>25</sup> [HC Deb 19 May 2016 c146](#)

Given the result, both sides must look again at the proposals and there should be no transition to a new contract until further talks take place.<sup>26</sup>

The Secretary of State Jeremy Hunt said:

It is extremely disappointing that junior doctors have voted against this contract, which was agreed with and endorsed by the leader of the BMA Junior Doctors' Committee and supported by senior NHS leaders.

The BMA's figures show that only 40% of those eligible actually voted against this contract, and a third of BMA members didn't vote at all. We will now consider the outcome.<sup>27</sup>

The Secretary of State made a further statement on the junior doctor contract, to Parliament, on 6 July 2016. He confirmed the Government's intention to implement the contract agreed in May in a phased process between October 2016 and October 2017:

Protracted uncertainty precisely when we grapple with the enormous consequences of leaving the EU can only be damaging for those working in the NHS and for the patients who depend on it. Last night, Professor Dame Sue Bailey, president of the Academy of Medical Royal Colleges, said that the NHS and junior doctors needed to move on from this dispute and that if the Government proceed with the new contract it should be implemented in a phased way that allowed time to learn from any teething problems. After listening to this advice and carefully considering the equalities impact of the new contract, I have this morning decided that the only realistic way to end this impasse is to proceed with the phased introduction of the exact contract that was negotiated, agreed and supported by the BMA leadership.

The contract will be introduced from October this year for more senior obstetrics trainees; then in November and December for foundation year 1 doctors taking up new posts and foundation year 2 doctors on the same rotas as their current contracts expire. More specialties such as paediatrics, psychiatry and pathology, as well as surgical trainees, will transition in the same way to the new contract between February and April next year, with remaining trainees by October 2017.<sup>28</sup>

The Secretary of State also said the Government and NHS England would continue with a separate process to look at improvements to the working lives of junior doctors more broadly, which will be led by the Under-Secretary of State for Health, Ben Gummer. He also announced he would commission an independent report on how to reduce and eliminate the gender pay gap in the medical profession. He said he hoped this piece of work would start in September.<sup>29</sup> The Shadow Health Secretary, Diane Abbott, welcomed the gender pay gap commitment but urged the Government to reconsider its decision to impose the contract.<sup>30</sup>

---

<sup>26</sup> [BMA, Junior doctors reject proposed contract, 5 July 2016](#)

<sup>27</sup> [Gov.uk update on junior doctor contract negotiations, 5 July 2016](#)

<sup>28</sup> [HC Deb 6 July 2016](#)

<sup>29</sup> [Ibid.](#)

<sup>30</sup> [Ibid.](#)

Responding to the Health Secretary's statement in the House of Commons, Dr Ellen McCourt, the BMA's interim junior doctors' committee chair<sup>31</sup>, said:

"It is extremely disappointing that the government is pushing ahead with the introduction of a contract that has been rejected by a majority of junior doctors.

Good progress had been made in recent months and I believe agreeing a contract in which junior doctors have confidence is still the best way forward.

By choosing this route rather than building on progress made and addressing the outstanding issues which led to a rejection of the contract by many junior doctors, the Government is simply storing up problems for the future.

A new contract will affect a generation of doctors and impact on the delivery of patient care. It needs to have the support of the profession and in light of today's announcement the BMA will need to consult with members before deciding on next steps.

The BMA has always been clear in its desire for a negotiated end to this dispute and I am committed to delivering on this."<sup>32</sup>

On 31 August 2016 the BMA Junior Doctors Committee announced further industrial action and the following day confirmed there would be 5-day strikes, including the withdrawal of emergency cover, in September, October, November and December 2016 (and due to occur between 8am and 5pm on each day of industrial action). On 5 September the BMA suspended the strike planned for 12-16 September after NHS leaders raised concerns about the ability of NHS to make contingency plans in time. On 24 September the BMA suspended strike action on the remaining dates:

- Wednesday 5 to Friday 7 October and Monday 10 and Tuesday 11 of October 2016 (the weekend of 8/9 October is not included in the planned industrial action);
- Monday 14 to Friday 18 November 2016; and
- Monday 5 to Friday 9 December 2016.

While the [BMA Junior Doctors Committee](#) said it would not go ahead with the industrial action, it confirmed its continuing opposition to the implementation of the contract and said it is "planning other actions over the coming weeks".

The Secretary of State has made statements to Parliament on the junior doctor contract, on 6 July 2016, following the BMA ballot rejecting the contract, and on 5 September 2016, following the BMA announcement of plans for industrial action. In both statements he confirmed the Government's intention to implement the contract agreed in May in a phased process between October 2016 and October 2017 [see [HC Deb 6 July 2016](#) and [HC Deb 5 September 2016](#)]

---

<sup>31</sup> Dr Ellen McCourt has been elected as the interim junior doctors' committee chair until a further election in September 2016.

<sup>32</sup> [BMA press release, 6 July 2016](#)

## A seven day NHS?

The Government has said it has a duty to make sure contracts are designed in a way which makes it as easy as possible for hospitals to organise their resources to maximise patient safety across every day of the week.<sup>33</sup>

While emergency services are provided 24/7 and it is acknowledged that junior doctors, and most consultants, already work at weekends, the Government have said that seven day services are needed to address higher hospital mortality rates for patients admitted to hospital at the weekend. In a speech in May 2015<sup>34</sup>, the Prime Minister quoted a report published in 2012 which found that mortality rates for patients admitted to hospital on a Sunday can be 16% higher than on a Wednesday.<sup>35</sup>

Links to the 8 UK studies into 'the weekend effect' on patient outcomes and mortality, referred to in statements by the Secretary of State for Health can be found on the [Department of Health website](#). However, some more [recent studies](#) have questioned the evidence for a 'weekend effect'.

The Government has made a specific commitment that patients in England will receive the hospital care they need seven days a week<sup>36</sup>, and have access to a GP in evenings and at weekends, by 2020.<sup>37</sup>

Improving weekend care requires more than just ensuring greater presence of doctors. The Government has said it also addressing issues such as access to weekend diagnostic services, provision of out of hospital care to facilitate weekend discharges, and adequate staffing cover amongst other clinical groups. However, the BMA has sought further clarification from Ministers on their plans for seven day services, in particular they have asked for more detail on which services are expected to be delivered seven days a week.<sup>38</sup>

The King's Fund have supported the Government's aims but ask how the NHS can provide extended services without additional funding, and without impacting on weekday services:

"A seven-day NHS is the right ambition but will be difficult to deliver. As the war of words with the BMA indicates, significant challenges will need to be overcome to ensure sufficient staff are available at weekends. There is also the question about how it will be paid for. The £8 billion increase in the NHS budget the government has pledged by 2020 is the bare minimum needed to maintain standards of care and will not cover the additional costs associated with a seven-day NHS."<sup>39</sup>

<sup>33</sup> Government response to e-petition, [To debate a vote of no confidence in Health Secretary the Right Hon Jeremy Hunt](#)

<sup>34</sup> Gov.uk, [PM on plans for a seven-day NHS](#), 18 May 2015; see for example NHS Choices, [Sunday hospital admissions 'a bigger risk'](#), February 2012; see also: speech by Health Secretary Jeremy Hunt to King's Fund, [Making healthcare more human-centred and not system-centred](#), 16 July 2015

<sup>35</sup> Use of this statistic has been questioned as the research did not look into whether the higher mortality risk was due to the way the NHS is run at weekends (BMJ, [Is the UK government right that seven day working in hospitals would save 6000 lives a year?](#), 5 September 2015); for an account of the most recent evidence see: BMJ, [Increased mortality associated with weekend hospital admission: a case for expanded seven day services?](#), 5 September 2015.

See also BBC News, [Junior doctors' row: Hunt's 6,000 deaths claim 'was unverified'](#), 24 February 2016

<sup>36</sup> [Reports of Review Body on Doctors' and Dentists' Remuneration and NHS Pay: Written statement - HCWS114](#), 16 July 2015

<sup>37</sup> Gov.uk, [PM on plans for a seven-day NHS](#), 18 May 2015

<sup>38</sup> BMA, [Prime minister: show doctors your plan for seven-day services](#), 30 August 2015

<sup>39</sup> King's fund, Our response to Jeremy Hunt's 25-year vision for the NHS, 16 July 2015

### Equalities assessment

The BMA has launched a judicial review challenging the lawfulness of the health secretary's decision to impose the contract. The BMA state that their legal challenge is based "on the government's failure to pay due regard to the equalities impact prior to imposition."<sup>40</sup>

In particular, the BMA has concerns that provisions of the new contract relating to unsocial hours and on-call availability payments are likely to have a greater impact on lone parents and other primary carers for children, who are more likely to be women. These provisions may also affect some specialties (such as paediatrics and obstetrics and gynaecology) where there is a disproportionate number of women doctors.

On 31 March 2016 the Department of Health [published an equality impact assessment and family test](#), based on its 11 February 2016 contract offer.

The Government's equality analysis states that the benefits of higher basic rates of pay for all doctors and modernised working practices are both a legitimate aim and (in the case of higher basic rates of pay) a mitigating factor against any adverse equalities impact that changes to variable payments may have.

As a result of considering the equality assessment the Secretary of State has asked for a number of changes to the contract to address specific issues for part-time doctors, who are also more likely to be women and/or lone parents:

- Previously the proposal was that all staff, full time and part-time, would have 3 years of transitional protection. Now doctors who are part-time or who take approved time out of programme will have 3 'full' years of protection - for example, a doctor working part-time on a 0.5 whole time equivalent basis throughout transition would have 6 actual years of pay protection. This will particularly benefit senior trainees (at ST3 and above) who will receive pay under the existing contract including increments and banding possibly until 2022.
- Previously, doctors who were absent on maternity leave or carers leave on 31 October 2015 (the base date for pay protection) would be protected based on their last salary before they went on maternity leave. They will now have protection calculated as if they had not taken leave so protection will be based on the salary they would have had on 31 October 2015 (which will normally be treated as the salary they return to).
- Doctors working part-time should be able to access Saturday Intensity payments (SIPs) on a pro rated basis. This means that while a full time doctor receives a SIP when they work one Saturday in 4 or more, a part-time worker working for instance on a 50% contract would receive the payment when they work one Saturday in 8. This will be kept under review.
- Doctors working part time will similarly receive on-call availability payments on a pro rated basis.

The Department of Health have also published an [equalities statement](#), which considers the 18 May 2016 contract proposals and their impact on junior doctors.

<sup>40</sup> [BMA, BMA launches legal challenge to contract, 31 March 2016](#)

## 4. The contract announced on 11 February 2016

NHS Employers has produced a summary of the contract offer announced by the Government on 11 February 2016, which compares this to the current contract, and the offer made by NHS Employers in November 2015.<sup>41</sup> This document confirmed the contract would increase to basic pay of 13.5% (NHS Employers' previous offer, and the current offer, is an increase of around 10 to 11%) to compensate for the reduced number of unsocial hours for which premiums would be paid. The Secretary of State stated that the February contract from NHS Employers would mean junior doctors working on one in four or more Saturdays would receive a 30% pay premium. He also said the basic pay rise would compensate for the reduced number of unsocial hours for which premiums would be paid.<sup>42</sup>

Other key measures on working hours in the February contract included:

- Reduction in the definition of 'safe hours' from 91 to 72-hours in any seven-day period.
- Maximum average 48-hour working week – down from 56-hours under the current contract.
- Maximum of four consecutive night shifts - down from seven currently.
- Maximum of five consecutive long shifts – down from seven currently.

To further address concerns about unsafe working the NHS Employers contract summary sets out plans for a new 'guardian of safe working' at each NHS hospital trust. The guardian would have the authority to impose fines for breaches to agreed working hours, which will be invested in educational resources and facilities for trainees. NHS Employers also confirmed additional measures about training, pay progression and pay incentives to support recruitment to certain specialities.

The February 2016 junior doctor contract would have seen an extension of plain time working further into the evenings and on Saturdays. This would have seen the period when doctors are paid at a standard rate change from 7am to 7pm between Monday and Friday to 7am to 9pm. On Saturdays it would introduce plain-time working from 7am to 5pm on Saturdays (the November 2015 offer had proposed standard-rates applied until 10pm on weekdays and 7pm on Saturdays<sup>43</sup>). The contract announced on 11 February 2016 also included a premium of 30% for Saturday 'plain time' working, if a junior doctor works one in four or more weekends.

---

<sup>41</sup> NHS Employers, [summary of the new junior doctors' contract, February 2016](#)

<sup>42</sup> [HC Deb 11 February 2016 c1763](#)

<sup>43</sup> [Junior doctors' contract: the new offer](#), NHS Employers, 4 November 2015



## 5. Further reading

[Junior doctors suspend strike plans due to 'patient safety' concerns, \*Guardian\*, 24 September 2016](#)

[Junior doctors' dispute: where are we now?, \*BMJ\*, 8 September 2016](#)

[BMA calls off September junior doctors' strike after 'scores' of protests, \*Guardian\*, 5 September 2016](#)

[Junior doctors' contract to be forced through after vote to reject new deal, \*Telegraph\*, 5 July 2016](#)

[Junior doctors' contract: a cessation of hostilities would help everyone, \*Guardian\*, 5 July 2016](#)

[Junior doctors' row: BMA fears 'uphill struggle' to sell deal, \*BBC\*, 19 May 2016](#)

[Junior doctors split over deal with Jeremy Hunt to end contract dispute, \*Guardian\*, 18 May 2016](#)

[Junior doctors' contract deal agreed, \*BBC\*, 18 May 2016](#)

[Junior doctors' contract and equality analysis are published, \*British Medical Journal\*, 31 March 2016](#)

[BMA launches legal action against junior doctors' contract, \*Guardian\*, 31 March 2016](#)

[Doctors' leaders urge ministers and medics to 'step back from brink', \*Guardian\*, 29 April 2016](#)

[Junior doctors escalate industrial action to all-out strike next month, the \*Guardian\*, 23 March 2016](#)

[Junior doctors' contracts: New wave of 48-hour strikes confirmed, \*Telegraph\*, 23 February 2016](#)

## 21 Junior doctor contracts in England

[Junior doctors set to hold more strikes, BBC, 23 February 2016](#)

[Hospital trusts threatened with cuts if they refuse to impose new contracts, The Guardian, 17 February 2016](#)

[Hospitals may refuse to impose Jeremy Hunt's new contract on junior doctors, The Guardian, 12 February 2016](#)

[We will fight contract imposition, says BMA, BBC, 11 February 2016](#)

[Junior doctors' row: The dispute explained, BBC, 11 February 2016](#)

[How much are junior doctors paid, and why are they threatening to strike?, Telegraph, 11 January 2016](#)

[Junior doctors' contract: the sticking points in negotiations, BMJ, 7 January 2016](#)

[Junior doctors in England to strike next week after talks break down, Guardian, 4 January 2016](#)

[Junior doctors' strike: what do the experts think?, Telegraph, 4 January 2016](#)

[Junior doctors' strikes are off - but thousands of operations will still be cancelled, Telegraph, 1 December 2015](#)

[Jeremy Hunt and junior doctors begin talks at Acas to avert strikes, Guardian, 26 November 2015](#)

[Junior doctors row: 98% vote in favour of strikes, BBC, 19 November 2015](#)

[What is the junior doctors row about?, BBC, 4 November 2015](#)

[Junior doctors rebuff Jeremy Hunt over contract negotiations, Guardian, 12 October 2015](#)

[Junior doctors contract row: an explainer](#), Guardian, 28 September 2015

[Jeremy Hunt Trying to 'Take on' Junior Doctors Is Precisely the Wrong Approach](#), Huffington Post blog post by Shadow Health Secretary, Heidi Alexander MP, 25 September 2015

[NHS chief has common sense on his side on seven-day working](#), Guardian, 8 September 2015

[Jeremy Hunt: Doctors 'must work weekends'](#), BBC, 16 July 2015

[Jeremy Hunt heralds NHS 'Reformation' as he heads for showdown with doctors](#), Guardian, 16 July 2015

**Library briefings:**

[General Practice in England](#)

This briefing paper provides general background on NHS primary medical services provided by GPs in England, including an overview of changes to GP contracts and funding.

[The structure of the NHS in England](#)

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcinfo@parliament.uk](mailto:hcinfo@parliament.uk).

Disclaimer - This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).