

To: Dr Mark Porter
Chair of Council
British Medical Association

NHS England
Skipton House
80 London Road
London
SE1 6LH

19 November 2015

Dear Mark,

Potential Industrial Action by BMA - Junior Doctors

As I am sure you will appreciate, as the national medical director for NHS England I need to consider the implications of any industrial action for the NHS and the patients we serve. I know that you will share my view, as will your members that patient safety is of paramount importance. I also believe that what we do now will be immensely important in protecting patients and doctors.

I would reiterate to both sides that I believe the best way to ensure patient safety is for the planned action not to take place. I would strongly urge you, even at this late stage, to come back to the negotiating table. I also set out my view last week that the offer, if implemented correctly, will address the long hours and related safety issues which have been such a cause for concern.

Given the outcome of your ballot, however, we must plan thoroughly to ensure that we can satisfy ourselves that arrangements to protect patients are robust, particularly given the BMA's plans for a full walkout of staff, including for urgent and emergency care, on 8 and 16 December.

NHS England will seek assurance from NHS organisations that they have robust contingency plans in place to mitigate any potential impacts from any form of industrial action to maintain safe services for patients. I will let you know any particular issues that this exercise highlights so that we can work together to ensure that local arrangements are strengthened.

To assist us with that it will be important that we have clarity on the BMA position on some key issues that are not fully addressed in material you have already set out to your members. In particular:

- We have received information from a range of NHS Trusts that there is significant confusion with regards to 'action short of a strike' and the exact implications of this action. We would be grateful if you would be able to provide further information as to what form this action would take so that we can provide the appropriate protection to junior doctors that their actions are not in breach of the GMC guidance on the duties of a doctor.

- To be more specific, your guidance for action on 1 December (Emergency Care Model) appears to say that doctors would in fact be on strike. I would be grateful for your clarification of the BMA position on its expectations of those doctors not providing emergency care on this first day of action. Can you confirm that the action you are asking those members to take does not constitute strike action?
- Your guidance also appears to say that doctors who are taking action, on 8 and 16 December, should not provide emergency cover. If as part of our assurance work we identify employers who cannot provide safe staffing levels to meet emergency care and are unable to find that cover elsewhere, I would be grateful if you could confirm that you will advise your members that they should provide cover in such circumstances.
- In light of the tragic events in Paris last Friday night, and the ongoing threat level in the UK, we need to ensure we have a clear understanding of arrangements should a major incident be declared. Will the BMA ensure that members will be available to respond to a major incident, whether this is declared because of a sudden single event or an unprecedented surge in activity? Will junior doctors, who would otherwise have been rostered for duty make themselves available to respond in a timely way, within one hour of a major incident being declared?
- Rather than just referring to the GMC guidance I think it would be helpful to protect doctors for the BMA proactively publicise and explain to its members the need to comply with the GMC guidance setting out the individual responsibilities of doctors. Can you confirm that you will communicate directly with your members to remind them of their individual professional responsibilities?

I would be grateful for your response to these questions by 23 November so that we can ensure that we mitigate as best we can the risks that such action may bring.

Yours sincerely,

A handwritten signature in black ink that reads "Bruce Keogh." The signature is written in a cursive style and is underlined with a single horizontal line.

Prof Sir Bruce Keogh
National Medical Director