RCS
ADVANCING SURGICAL STANDARDS

FROM THE PRESIDENT
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Rt. Hon. Jeremy Hunt MP
Secretary of State for Health
Department of Health
Richmond House
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Dear Secretary of State

The implementation of the European Working Time Directive WTD and the associated European Court of Justice judgments (SiMAP and Jaeger) into the NHS has had a profound effect on the training of junior staff, the working lives of consultants and patient care in the UK. The significant reduction in hours to an average of 48 per week has helped to reduce fatigue for doctors and contributed to patient safety. However, it has engendered changes in other aspects of care and training that were perhaps not intended, when it was fully introduced in 2009. The straitjacket of the Directive and the impact that inflexibility has within healthcare have ushered in negative effects which have posed significant challenges.

The evidence the taskforce has collected shows that although some specialties have been able to adapt reasonably well others, particularly the 'craft 'specialties and acute medicine, have suffered. Many of the trainees in these specialties have to regularly work longer hours, on a voluntary basis, to ensure they receive the training they need as well as to provide the continuity of care they feel their patients deserve. The extra hours worked without any formal recognition by Trusts speaks volumes for the dedication of trainees but is an untenable situation in a modern health service.

The rigidity of the Directive and associated court judgements has required virtually all doctors to work strictly in shifts; this suits some specialties more than others. Shift patterns – with a doctor working a 12 or 13 hour shift - can be intense, and although they may be compatible with the Directive may cause fatigue. Trainees can lose contact with their trainers, and with it the support they need in their early careers. There is also a hidden risk that shift working inculcates a less than professional approach and a clock-watching mentality. The taskforce is clear that some of the negative effects can be mitigated by better rota design, enhanced arrangements for night time care and greater consultant presence; such best practice should be disseminated throughout the system and this forms one of our recommendations. But for certain specialties, improvements may only come about through significant service redesign and consultants working more unsociable hours which in turn will require more staff and greater resource. These changes even if feasible will not necessarily deal with all the problems and will anyway take a considerable time to achieve and there is an urgent need to improve matters now. The recommendations we have made suggest a way forward, although it is appreciated that implementation of some of these may not be straightforward.

One of the more radical recommendations that deserves further exploration is the separation of education from service. Many trainee groups and professional societies have wanted this for some time, well before the introduction of the Directive. The concern frequently voiced by trainees and their trainers is that invariably education and training are squeezed out by day to day needs on the wards. We believe that a highly trained medical workforce, given the protected

time to learn all the necessary skills for such a demanding job as medicine is a good investment and will more than pay dividends when it comes to producing very significant improvements in patient care. If the educational component of time was remunerated by a grant which was specialty specific depending on the intensity of the training required, many of the problems related to the inflexibility of the regulations might be resolved. Our independent legal advice confirms that such a change would fall outside the requirements of the WTD.

More liberal use of the opt out system might also be another mechanism that might improve the challenges faced by some specialties in delivering the patient care and training they aspire to. In Germany where this happens there has been no evidence that patient care has suffered as a result of this extension in hours. However we recognise that such a sectorial opt out will be difficult to implement without all doctors in the sector voluntarily agreeing to do so.

The other area which is frequently blamed for the rigidity of the system is the SiMAP and Jaeger judgements, the latter determining when rest periods must be taken. The taskforce believes that it is essential for individuals to have the rest they need to remain safe in providing care. However, we are concerned that the rigid application in particular of the Jaeger judgement has contributed to the inflexibility in the system. No-one wants to see tired doctors on the ward as that would be detrimental for patients, but the current system does not provide the optimal continuity of care. The advice we have received suggests that there is no genuine margin for creating the necessary flexibility around these judgements so we believe that Government should consider how it might go about achieving this.

In conclusion the taskforce has found that implementation of EWTD in the NHS has caused major challenges for certain specialties both in terms of delivering excellent patient care and postgraduate training. Some of these effects can be mitigated by better design of working patterns, but this will be insufficient in present circumstances to prevent the situation from further deterioration. We therefore request that you investigate urgently the feasibility of implementing the recommendations we have made. Some of these are likely to impinge directly on the junior doctor and consultant contract negotiations that are on-going but taken together they may well bring about the flexibility that is required.

I am enormously grateful to all those individuals and organisations that provided evidence to the group. I would also like to thank all members of the taskforce that gave up their valuable time to debate these important issues. This report reflects the agreed recommendations of the taskforce, but it cannot be assumed that we reached unanimous agreement on all points. However, after much deliberation the taskforce has come up with what I believe are constructive proposals to create the much needed flexibility within the WTD.

Yours sincerely

Norman Williams.

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President
Chair of EWTD Taskforce