

HEE National Office

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Ellen McCourt

By email: EMcCourt@bma.org.uk



9th August 2016

Dear Ellen,

We write to update you on the progress made by Health Education England (HEE), with the support of NHS Employers, in extending the rights of junior doctors to make protected disclosures without fear of detriment by HEE.

We know this was one of the BMA's key non-contractual concerns in the negotiations around the new contract so we are pleased we have been able to act positively to remove this potential barrier to junior doctors raising patient safety concerns.

As you know legislation protects those making disclosures against detriment from their employers, in the case of junior doctors that is the NHS Trust or practice they are working in. The concern raised by the BMA is that this was not sufficient protection for junior doctors because HEE, despite not being the employer, has a significant influence over their careers.

We are aware of a belief that HEE has acted detrimentally towards whistle-blowing trainees but avoided accountability because it was not the employer. HEE does not accept this view and is clear it has always supported junior doctors making protected disclosures. However, any perception which makes it less likely patient safety issues are raised is not acceptable.

Therefore HEE has agreed with the BMA, NHS Employers and the Department of Health that HEE will voluntarily place into its contracts with local employers a provision that protects junior doctors against detriment from HEE and gives redress through the courts if necessary. HEE making itself liable under contract for something it is not legally required to do is a significant step but after hearing the views of the BMA about the impact this issue was having we feel it is the right thing to do.

We will be writing to local employers soon to place this new right in the contracts we hold for the provision of training. We will also be seeking the support of the BMA to both produce and promote a clear communication to all junior doctors outlining this new right and how it should be used.

It is also HEE's intention that this new right will be backdated to August 3rd 2016 to align with the start date of new junior doctors on that date.

We hope this letter gives you the comfort you need that HEE has taken on board the concerns raised by the BMA and its members and acted accordingly to support junior doctors and their patients.

Yours Sincerely,



Professor Wendy Reid
Health Education England



Daniel Mortimer
NHS Employers

Cc: Daniel Mortimer, Chief Executive NHS Employers

Josephine Brady, Senior Policy Advisor, BMA