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Dear Chi,

JUNIOR DOCTORS' COMPLIANCE WITH THE EUROPEAN WORKING TIME DIRECTIVE

The clerk's letter of 28 September 2009 requested my advice on the Assembly Government's further response on junior doctors' compliance with the European Working Time Directive. The Committee will recall that, in March 2009, I published my own report on this topic. That report raised concerns about the prospects for achieving compliance with the requirement for all junior doctors to be working an average of 48 hours a week or less from 1 August 2009.

The Assembly Government responded previously, on 10 June 2009, describing some of the action that had been taken to support compliance and to address with the Department of Health the potential problem of junior doctor vacancies. At its meeting on 2 July 2009 the Committee resolved to continue to monitor this area and requested subsequently from the Assembly Government details of the level of compliance achieved by the August deadline.

The Assembly Government's response indicates that, post 1 August 2009, five of the former NHS trusts were not able to report full compliance with the 48 hour limit. However, at North Wales and North West Wales NHS Trusts, now subsumed within the new Betsi Cadwaladr University Local Health Board, all of those areas that were non-compliant have been granted a temporary derogation from the 48 hour limit, being required instead to reduce average weekly working time to 52 hours or less.




Cardiff and Vale, Gwent Healthcare and Cwm Taf NHS trusts have also been granted temporary derogations in some, but not all, of the areas of non-compliance. Even accounting for those areas covered by a derogation, still only 62 per cent of junior doctors' working patterns at Cwm Taf NHS Trust were compliant with the Directive. The extent of this shortfall in compliance is a matter of some concern, although the Assembly Government's response suggests that the Trust had made plans to achieve full compliance, in those areas not covered by a derogation, by February 2010.

The Assembly Government's response indicates that all newly introduced rotas were to be subject to further monitoring in September and October. This monitoring is important because, as I noted in my report, the reported rates of compliance are based on agreed rotas and do not necessarily reflect actual working patterns on the ground. The Assembly Government acknowledges that trusts had still been experiencing problems filling slots on doctors' rotas. Problems filling posts could, in turn, put pressure on other doctors to work longer hours. At 332 in August, the number of medical non-consultant vacancies is clearly still a significant problem which requires further attention and action.

The Chief Executive of NHS Wales has indicated that he would be writing to the Chief Executives of the new Local Health Boards reminding them of their responsibilities under the Directive. He has also indicated that Assembly Government officials shall continue to monitor the situation. I too will be raising this issue in my own legacy reports on recent local audit work across each of the health communities. These reports will be presented to the new Local Health Boards over the next two months. I also intend to incorporate some follow-up work on this issue as part of my audit plans for the new Local Health Boards. This follow-up work will be particularly pertinent where the Local Health Boards have inherited a position of non-compliance or where further work will be required in those areas that have been granted a temporary derogation from the 48 hour week limit. More generally, there is scope to consider whether changes made to achieve compliance with the 48 hour limit are sustainable.

I would be happy to provide my own further update to the Committee, should I identify any matters of particular concern as a consequence of this follow-up work, later in 2010.

Yours sincerely, 

JEREMY COLMAN
AUDITOR GENERAL FOR WALES