



MEDICAL PROTECTION SOCIETY



Our ref: SPW / AVDL / 04.078
(Please quote when contacting the Society)

Direct line to secretary: 020 7399 1409
(Office hours only)

26 July 2004

PERSONAL AND CONFIDENTIAL

Mr Simon Eccles
Chairman
BMA Junior Doctors Committee
BMA House
Tavistock Square
London WC1H 9JP

Dear Mr Eccles

Re: **Consultant contract and European Working Time Directive**

Thank you for your letter of 23 July 2004.

The European Working Time Directive places an obligation on an employer not to require an employee to work more than 48 hours per week. It is for the individual employee to determine how he spends the rest of the week. A registered medical practitioner has a professional obligation to ensure that he or she is fit to carry out their job and that their performance is not constrained because of tiredness or any other relevant factors.

If a claim in negligence arises, then a successful defence requires the doctor to prove that he provided a standard of care in line with that accepted by a responsible body of medical opinion. If the claim cannot be defended because the care fell below an acceptable standard, then it is, to a large extent, immaterial why it fell below that standard. Having said this, if the General Medical Council considered that a doctor was repeatedly working a very onerous number of hours and putting patients at risk, then it is possible they would seek to intervene.

MPS has no plans to limit the benefits of membership in response to the new European Working Time Directive. It remains the case that a member paying the correct subscription is entitled to apply for the benefits of membership in respect of an incident arising during the period of membership.

I hope that the above comments are helpful.

Yours sincerely

Dr Sherry Williams
Deputy Director, Communications and Policy

