

Royal College of Nursing response to the Call for Evidence on Equality Legislation

1. About the Royal College of Nursing (RCN)

- 1.1. With a membership of over half a million registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

2. About this response

- 2.1. The draft Equality (Race and Disability) Bill aims to make the right to equal pay effective for ethnic minority and disabled people, establish an equal pay regulation and enforcement unit with the involvement of trade unions and ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay. As part of the development of the draft Bill Government has launched a call for evidence around Equality legislation
- 2.2. The scope of the draft Bill is proposed to be Great Britain – Scotland, Wales and England.
- 2.3. In this paper the RCN is responding to each of the themes set out in the call for evidence, and is responding on the basis of the RCN's role in working on behalf of half a million members of the nursing workforce across the UK, including the provision of legal support, the RCN has the largest in-house specialist legal team of any union or professional body in the UK.

3. The prevalence of pay discrimination on the basis of race and disability

EVIDENCE ON PAY DISCRIMINATION BY ETHNICITY

- 3.1. Most ethnic minority groups in the UK earn, on average, less than the White British group. Between 2012 and 2022, for example, Black, African, Caribbean or Black British employees consistently earned less than their White counterparts.¹
- 3.2. This is particularly relevant for nursing and the wider health and care workforce, in 2022 the RCN found that White nurses are twice as likely to as Black and

¹ Office for National Statistics (2023) Ethnicity pay gaps, UK: 2012 to 2022 available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/ethnicitypaygapsingreatbritain/2012to2022#:~:text=In%20the%20UK%20in%202022,has%20been%20consistent%20since%202012.>

Asian colleagues to be promoted² and in the latest England results for the NHS Workforce Race Equality Standard, under 50% of staff from ethnic groups (other than white) felt that their employer “acts fairly with regard to career progression/promotion, regardless of ethnic background, gender, religion, sexual orientation, disability or age”.³

- 3.3. In the NHS in England there are significant differences in progression to Band 6+ over time, by ethnicity. The IFS found that of nurses who were at the lowest point of the Band 5 in November 2012, 67% of White nurses were in band 6+ by August 2021, compared with 60% of Black nurses and 52% of nurses of Asian ethnicity, meaning that the rate at which a nurse progresses through the NHS Pay scale, varies by ethnicity.⁴
- 3.4. Staff from a Black, Asian or minority ethnic background working in Adult Social Care in England are 45% less likely to be in senior manager roles compared to staff with a White ethnic background, and are around half (48%) as likely to be appointed from a shortlist than staff from a White ethnic background, and staff from a Black, Asian or Minority Ethnic Background are less represented in the highest pay band.⁵

EVIDENCE ON PAY DISCRIMINATION BY DISABILITY

- 3.5. Disabled employees in the NHS report a lack of career progression or feeling valued in their employment. In England, just over half (52%) of disabled employees feel that they have equal opportunities for progression compared to non-disabled employees, and only 35.2% of disabled staff report that they feel valued for their contribution, and there are significant reports by disabled people of harassment, bullying or abuse, 16.1% from managers and 24.8% from other colleagues.⁶
- 3.6. Although there has been growth in employment rates for disabled people in recent years⁷, disabled people have on average, lower incomes than non-disabled people. According to the Office for National Statistics, in the UK there was a gap of 12.7% in 2023 between median pay for disabled employees and non-disabled employees.⁸ The disability pay gap intersects with gender and race

² Integrated Care Journal (8.6.22) White nurses twice as likely as black and Asian colleagues to be promoted available at: <https://integratedcarejournal.com/rcn-survey-workforce-racism/>

³ Workforce Race Equality Standard 2024 available at: <https://www.nhsstaffsurveys.com/results/national-results/>

⁴ Institute for Fiscal Studies (2024) Progression of nurses within the NHS available at: <https://ifs.org.uk/publications/progression-nurses-within-nhs>

⁵ Community Care (May 2025) Minority ethnic social care staff continue to face worse outcomes than white colleagues available at: [Minority ethnic social care staff continue to face worse outcomes than white colleagues - report - Community Care](#)

⁶ NHS England (March 2024) WDES data 2023 available at: <https://www.england.nhs.uk/long-read/workforce-disability-equality-standard-2023-data-analysis-report-for-nhs-trusts/>

⁷ DWP (June 2025) The Employment of Disabled People 2024 available at: <https://www.gov.uk/government/statistics/the-employment-of-disabled-people-2024/the-employment-of-disabled-people-2024#:~:text=In%202023/24%2C%2065.1%25,number%20of%20health%20conditions%20increases.>

⁸ ONS (2024) Disability Pay Gaps in the UK: 2014 to 2023 available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/disabilitypaygapsintheuk/2014to2023>

pay gaps, with the median hourly pay for disabled women at £4.05 less than for non-disabled men.⁹ and disabled Black and minority ethnic women, according to the Fawcett Society (2023), earn 20% less than White British men.¹⁰

- 3.7. While pay gaps are not direct evidence of discrimination, large and persistent pay gaps are likely to reflect, at least in part, both direct and indirect forms of pay discrimination.

INTERNATIONALLY EDUCATED/MIGRANT NURSES

- 3.8. Many internationally educated nursing staff arrive in the UK with years or even decades of experience, including in senior nursing roles. However, these staff are often recruited to roles more junior and lower paid than their experience reflects. A third (34%) of respondents to a recent survey of internationally educated RCN members reported that their existing experience and qualifications were disregarded when applying for roles.¹¹ In the NHS, internationally educated nursing staff are employed at the bottom of Band 5, regardless of their amount of experience before arriving in the UK. Analysis by the University of Huddersfield found that career progression from Band 5 also happened less frequently for internationally educated nurses compared to UK-educated nurses.¹²
- 3.9. The RCN cost of living survey in January 2024 found that migrant nursing staff are more than twice as likely as those educated in the UK to be struggling financially, with two thirds (62%) considering leaving the UK due to cost of living pressures. The survey also found that internationally educated staff with the NRPF condition are more likely to be responsible for all household costs or the main financial contribution to their household (72% of internationally educated respondents compared with 58% for UK-educated respondents).

4. Making the right to equal pay effective for ethnic minority and disabled people

- 4.1. A key issue for disabled employees and in disability discrimination is the failure of employers to make reasonable adjustments and unfavourable treatment because of something arising from disability. In the two years to 31 May 2025, the RCN received 487 member enquiries relating to reasonable adjustments for disability, the numbers of enquiries have been increasing over time, with on average 32 calls per month so far in 2025, compared to an average of 20 calls per month in 2024 and 13 in 2023.

⁹ TUC (Nov 2024) Disability Pay and Employment Gaps available at:

<https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps>

¹⁰ Fawcett Society (2024) Double Trouble available at: <https://www.fawcettsociety.org.uk/double-trouble-the-ethnicity-gender-pay-gap>

¹¹ RCN (May 2025) Unreciprocated Care: why internationally educated nursing staff are leaving the UK available at: <https://www.rcn.org.uk/Professional-Development/publications/rcn-unreciprocated-care-why-internationally-educated-nursing-staff-are-leaving-uk-pub-012-109>

¹² University of Huddersfield (2023) Health and Wellbeing Academy: The Long-Term Experiences and Career Progression of International Nurses Working in the NHS available at: https://www.hud.ac.uk/media/assets/document/hhs/Longterm_Experiences_and_Career_Progression_Web.pdf

- 4.2. The current Access to Work (A2W) system is not effective, due to the long waits for an individual assessment and the lack of enforcement powers, meaning that employers can ignore A2W recommendations.
 - 4.3. Nurses have also identified to the RCN that the request for reasonable adjustments can result in disabled people facing difficulties in gaining promotion when they have reasonable adjustments in place – with unfair perceptions by employers of the ability of a disabled employee with reasonable adjustments to do a more senior job. In the RCN’s response to the consultation on race and disability pay gap reporting we called for public bodies to provide clear data showing proportions of disabled employees at each pay band/scale, and this should also be broken down by those in receipt of reasonable adjustments.
 - 4.4. Nationality should be considered as a high risk-factor for pay discrimination alongside race. Internationally educated nursing staff currently lack support to work at the full scope of their qualifications and experience and provided equal access to continuing learning and career progression.
- 5. Measures to ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay**
- 5.1. The RCN welcomes provisions aimed at addressing the risks associated with public sector outsourcing, particularly in preventing the creation of a two-tier workforce. Historically, outsourcing arrangements have led to discrepancies in pay, terms, and conditions between workers doing the same or similar jobs, which can undermine morale and create division within the workforce.
 - 5.2. Outsourced workers and in-house employees should have the right to view and compare their terms and conditions of employment, as currently it can be difficult to access this information.
- 6. Improving the enforcement of equal pay rights by establishing an Equal Pay Regulatory and Enforcement Unit, with the involvement of trade unions**
- 6.1. Robust enforcement mechanisms are necessary to ensure the right to equal pay is protected in the workplace. When employers fall short of their obligations, a clear and effective system for meaningful redress should be readily available.
 - 6.2. The new Unit should be able to pursue claims on behalf of an individual who wasn’t, for example, in a trade union or didn’t have the financial resources to instruct solicitors.
 - 6.3. The Unit would need to be adequately resourced and include experts in assessing claims, e.g. work of equal value.
- 7. Improving pay transparency**
- 7.1. The statutory discrimination questionnaire was abolished by the coalition government in 2013. Without that tool (and simply relying on a non-statutory ACAS questionnaire) it is difficult to obtain the relevant evidence.
 - 7.2. It must be made mandatory for all employers to job evaluate all jobs and an enforceable right for an employee to have their job evaluated. The job evaluations could then be used as evidence in equal pay claims.

- 7.3. Employers should have a transparent pay policy which sets out pay structures and the criteria for how pay is increased annually to reflect changes in the cost of living. Pay increases should be decided with the engagement of staff, this could be through recognised trade union representatives.¹³
- 7.4. Pay transparency related to race and disability would in part rely, on voluntary self-disclosure of the workforce of the status of the relevant protected characteristic. With the risk that the data could be incomplete and/or open to misinterpretation. Classification of ethnic groups should be based on best practice and ensure that any data gathering for race and ethnicity is done in participation with the groups impacted by this. Disability status relies on self-identification and is impacted by a reluctance to disclose due to fear of treatment by employers.

8. Strengthening protections against combined discrimination

- 8.1. The RCN welcomes the proposal to enact provisions around combined discrimination. However, the legislation must be carefully developed to ensure that these provisions are workable and to reduce complexity, as claimants will face greater difficulty shifting the burden of proof in such claims.
- 8.2. Overall, this legislation should reduce the burden on individuals pursuing equal pay claims and reduce complication. This may in part be achieved through ensuring that there can be a collective equal claims process as well as an individual process.

9. Ensuring the Public Sector Equality Duty (PSED) is met by all parties exercising public functions

- 9.1. The Public Sector Equality Duty (PSED) remains a potentially powerful tool in managing the impact of structural, institutional and interpersonal forms of racism and discrimination. However, there is scope for the duty to be strengthened by requiring the practical and demonstrable delivery of clear and defined outcomes which goes beyond the current 'due regard' requirement on the part of nursing employers and publicly funded service providers.
- 9.2. The Public Sector Equality Duty must include specific, measurable and meaningful duties set out for public bodies to comply with.

10. Creating and maintaining workplaces and working conditions free from harassment

- 10.1. In the latest NHS staff survey (2025) 14% of nursing and midwifery staff have faced discrimination at work from patients, their relatives or other members of

¹³ RCN (2024) Employment Standards for Independent Health and Social Care sectors available at: <https://www.rcn.org.uk/Professional-Development/publications/rcn-employment-standards-for-independent-sectors-uk-pub-011-603>

the public in the last 12 months, with 66% citing discrimination on the grounds of their ethnic background.¹⁴

- 10.2. The RCN receives a high volume of calls relating to bullying, harassment, abuse, and violence, so far in 2025, RCN Direct, the advice service for RCN members, has received an average of 562 monthly enquiries on these issues.
- 10.3. In health and social care environments, it may not be possible to completely eradicate work related violence towards staff, however employers have a duty under health and safety legislation to assess the risks and take measures to minimise the risk of harm. Measures to address and mitigate work related violence need to be tailored for each type of environment and client group.
- 10.4. In 2023, the NHS staff survey asked a question on sexual harassment at work. The survey revealed that 58,000 staff reported unwarranted sexual approaches from patients or other members of the public last year – that’s 1 in every 12 NHS workers. 1 in 26 reported experiencing similar harassment from work colleagues.¹⁵
- 10.5. The scale of these experiences is likely to have detrimental implications for retention and workplace culture. As such, these areas must be a priority for all employers and decision makers.
- 10.6. This Bill must set out measures to address violence and workplace safety. This should be undertaken alongside increased employer-led initiatives to identify and mitigate inequalities in the workplace.
- 10.7. As part of the work around this Bill, Government should reinstate the statutory discrimination questionnaire in order to obtain the relevant evidence to support approaches to reduce workplace harassment. Data should also be collected, publicly reported, and reviewed in terms of the protected characteristics of staff assaulted including sexual orientation, disability, race and religion. Data on the experiences of internationally recruited staff is also required.

11. Commencing the socio-economic duty

- 11.1. The RCN welcomes the Government’s manifesto commitment to enact the Socio-Economic Duty, however lessons should be learned from the PSED and the opportunity to strengthen the “due regard” provision, by ensuring clear and defined outcomes for employers.

For more information about this response please contact Emily Taylor, Senior Policy Adviser at Emily.Taylor@rcn.org.uk

¹⁴RCN (March 2025) NHS Staff Survey: results should ‘send shockwaves through government’ available at: <https://www.rcn.org.uk/news-and-events/news/uk-nhs-staff-survey-send-shockwaves-through-government-140325>

¹⁵ NHS National Staff Survey 2023 available at: www.gov.uk/government/statistics/2023-nhs-national-staff-survey