

Royal College of Nursing response to Make Work Pay: improving access to flexible working

About the Royal College of Nursing

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.

Consultation questions

Responding as a trade union and professional body.

Which region?

UK-wide.

In your view, has overall access to flexible working improved since the 2024 changes were introduced?

Overall access to flexible working has improved for some staff, but progress remains uneven for nursing and is still constrained by staffing capacity and rostering practice.

Across successive RCN Employment Surveys, data shows that despite various legislative reforms, satisfaction with choice over working hours and shift patterns for nursing staff remains a minority position and has not shown sustained improvement over time, underlining the gap between formal rights and lived experience.

The most recent RCN Employment Survey (2025) still had only a minority of respondents expressing satisfaction with choice over working hours or shift length.

Whilst most nursing roles require nursing care to be delivered in-person this must not preclude flexible working for nursing staff. Flexibility can be achieved through changes to working time rather than location. Where employers have invested in transparent - rostering, staff can experience greater predictability and fairness, which supports retention and wellbeing.

However, in services with persistent vacancies, managers may have limited headroom to agree changes without risking safe cover and skill mix, which can leave staff feeling that flexibility is a paper right. In addition, nursing roles in education, management, leadership and research must also be able to access flexible working, often RCN members report facing resistance to flexible working due to roles being ‘management’ or ‘too senior’ for flexibility.

The RCN Employment Survey has consistently shown that flexible working for nursing staff has remained limited, uneven, and highly contingent on role, setting and local management discretion, with no sustained improvement over time.

The RCN evidence aligns with issues raised by campaign groups who echo this gap between legal entitlement and lived experience. The TUC and coalition partners argue that a day one right to request can still operate as a right to ask that is refused, and they call for measures that make flexibility real in practice, including greater transparency earlier in recruitment.

The Institute of Employment Rights has similarly highlighted that flexible working has often been a right to request rather than a right to receive, with refusals facilitated by broad grounds, reinforcing the need for stronger accountability and culture change.

For nursing, the key test of improvement is whether reforms translate into consistent, safe, and equitable access to flexible working across health and social care settings, and employers, rather than depending on individual negotiation, staffing goodwill or local discretion, or even worse staff resorting to zero-hours contracts (bank or agency) as the only way to access flexible working.

Do you feel the proposed objective is appropriate for the consultation meeting?

We feel that this is appropriate because it focuses on identifying obstacles to the requested arrangement and exploring workable alternatives, which is often how flexibility is delivered in nursing.

RCN Employment Survey evidence consistently shows that staffing shortages, workload pressure and reliance on unpaid additional hours are widespread across nursing services, which helps explain why flexible working requests are often viewed as unfeasible and underlines the importance of consultation meetings genuinely exploring alternatives rather than defaulting to refusal.

In 24/7 services, the original request may not be feasible, but alternative patterns can act as a workaround, for example through predictable rotas, compressed hours, annualised hours, job-share, or trial periods.

The objective should explicitly recognise that nursing is safety-critical and that any solution must maintain safe staffing and skill mix. This clarity would help ensure that exploring alternatives is not interpreted as shifting risk onto colleagues.

The RCN view is that this new process should be a genuine problem-solving conversation rather than a procedural step toward refusal. For these changes to be effective in nursing contexts, the consultation process must be supported by clear guidance and a shared expectation that discussions are genuine, evidence-based problem-solving conversations rather than procedural steps toward refusal.

The TUC emphasises that flexibility should not be treated as a discretionary favour, and that workers often fear discrimination or rejection when they ask for flexibility, despite an objective justification being required for refusing a request.

Business Disability Forum also argues that, where the initial request cannot be accepted, employers should explain why and work collaboratively to identify an alternative that meets the individual's needs.

In nursing, a clear objective that balances staff wellbeing with patient safety would support constructive dialogue and reduce the unpredictability that currently arises from the handling of requests.

Setting up the meeting

The meeting must be held without unreasonable delay, and must take place within the two month period for making a decision.

In practice, to allow time for potential follow-up conversations to agree an alternative arrangement before a decision is agreed, the conversation should happen within six weeks of a request being made.

The employee must be informed about the context of the meeting in advance to allow them to prepare for it.

A person with the authority to make a decision about flexible working arrangements must attend the meeting. This could be the employee's line manager, or it may be a different member of staff. They will be referred to as the decision maker for the purposes of the requirement to consult.

The decision maker will be required to keep a record of the discussion during the meeting.

How much advance notice do you think an employee should receive before the meeting is held?

- a) 1 day
- b) 3 days
- c) 1 week
- d) Other, specify:

e) The requirement should be to give fair notice, accounting for ways of working within the organisation

f) No minimum notice should be required

g) Do not know

The meeting should be arranged with 'fair notice' that takes account of shift patterns, rest days, and fatigue, with an expectation of around one week where feasible.

Nursing staff commonly work rotating shifts and nights, and short-notice meetings risk landing on protected rest periods or immediately after night duty, which undermines meaningful engagement and perceived fairness.

A fair-notice standard is preferable to a single rigid minimum, provided it is accompanied by clear guidance that notice should be sufficient for the employee to prepare, gather relevant information, and arrange representation or support.

This aligns with trade union and good-practice guidance that consultation should occur without unreasonable delay but should still allow reasonable time to prepare.

In practice, employers should also offer flexibility in how meetings are held, for example by video, to reflect shift-based realities. For nursing, the quality of the consultation is likely to improve if the process protects staff time and avoids creating additional burdens, particularly in high-intensity clinical settings.

As part of fairness, employers should avoid scheduling meetings at times that systematically disadvantage particular groups, such as those with caring responsibilities, and should consider the operational challenges of releasing staff for meetings during peak clinical demand.

Do you agree with the proposed requirements for setting up the meeting?

In nursing, a decision-maker who can authorise change but lacks understanding of clinical staffing, skill mix, and rostering constraints is less likely to identify safe, workable alternatives.

The requirement to provide context in advance and to hold the meeting within the statutory decision window is welcomed, but guidance should emphasise that ‘no unreasonable delay’ must still accommodate shift patterns and protected rest.

The requirement to keep a record is strongly supported by the RCN, because written records improve transparency and consistency across departments and workplaces and reduce disputes about what was discussed and/or agreed.

Staff have reported a power imbalance that can exist when staff request flexibility and the fear of negative consequences, which makes accompaniment and clear documentation important safeguards.

TUC guidance treats accompaniment as good practice where reasonable and stresses that consultation must come before rejecting a request. A strengthened process should encourage employers to allow a trade union rep (if requested) to provide the employee with the record or a written summary, supporting trust and reducing variability in outcomes. This approach would help ensure the meeting functions as a genuine exploration of options.

During the meeting

In your view, which of the elements set out in the suggested process above should be part of the meeting between a decision maker and employee about a statutory flexible working request?

All core elements listed in the consultation should form part of the meeting, and the process should explicitly require consideration of rostering options and use of roster data and caseload data in community and primary care roles to assess feasibility and fairness.

RCN Employment Survey data shows that high workload and staffing pressure are pervasive features of nursing work, reinforcing the need for consultation meetings to be grounded in evidence-based discussion of feasibility, alternatives and trial arrangements rather than assumption or default refusal.

Where a request is not able to be granted, objective justification should be provided for the reason that the request cannot be granted and what alternatives have been considered (including partial approval of request or alternative flexible working options)

The decision-maker should clarify whether the request should be treated as a reasonable adjustment, because nurses with caring responsibilities, disabilities or long-term health conditions may need flexibility as an adjustment, and delays can be harmful. The decision-maker should also explain challenges with the original request using evidence, such as patient demand patterns, skill mix requirements, and roster fill rates, to avoid generic refusals.

Alternative start dates should be explored where alignment with rota cycles, training, or service change plans could make an arrangement workable. The meeting should focus on alternative arrangements that suit shift-based roles, including predictable rotas, self-rostering principles, annualised hours, compressed patterns, or job-share.

Trial periods should be discussed where impacts are uncertain, because clinical settings can benefit from testing arrangements safely before they are formalised.

Evidence supports keeping the reasonable adjustment check central, and Disability Rights UK highlights that flexible arrangements, including remote or hybrid where feasible, can be essential for disabled workers, while also noting gaps in delivery of reasonable adjustments.

Communicating Outcomes in Writing

Do you agree that employers should be required to communicate the outcome of the meeting, as well as the outcome of the statutory request, in writing?

Written communication improves transparency and supports consistent practice across departments and teams. Crucially, it reduces the scope for misunderstanding about what was discussed, and provides clarity on what alternatives were considered and what was agreed.

In nursing, where workload pressures and shift patterns can make verbal messages or agreements unclear, written outcomes are particularly important for clarity and fairness.

Written records also support organisational learning by enabling employers to identify patterns, such as repeated refusals for particular teams or staff groups, which may indicate barriers or training needs.

Objective justification should be provided in the written response to the request where a request is being partially or fully rejected. Alternative proposals should be provided in writing where identified

Equality campaign groups consistently argue that flexible working rights lack impact when decisions are opaque, and they call for greater accountability and enforceability. TUC guidance underlines that employers should consult before rejecting a request and provide a written decision within the statutory timeframe, and the DBT consultation itself is driven by concerns about inconsistency and poor definition of consultation practice.

A written summary and decision are proportionate and necessary, especially as the 'reasonableness test' is intended to increase scrutiny of refusals from further changes expected in 2027.

For nursing staff, written outcomes would also support timely escalation where processes are not followed or where the rationale is being challenged.

Do you have any further thoughts or suggestions on the process for the requirement to consult outlined above?

For nursing, these reforms should support retention while safeguarding patient safety.

That's why the consultation process should be strengthened so it works for 24/7 shift based services and closes the gap between a right to request and real access to flexible working.

Guidance and requirements should explicitly include time-based flexibility for frontline roles, including predictable rotas, annualised hours, compressed patterns, job-share and supported self-rostering.

Employers should be required to document the alternatives explored, any trial period offered, and the patient-safety and service-delivery rationale where a request is refused, to ensure the consultation process is fit for purpose.

Organisations should also monitor outcomes at service and employer level to ensure equity across staff groups and sites. In addition, policymakers should explore accessible early resolution routes, such as mediation or independent review, so that staff, especially time poor staff, are not forced into escalation.

Campaign groups emphasise that current rights can still leave workers fearful of asking and vulnerable to refusal. Pregnant Then Screwed proposes an 'advertising duty' and stronger enforcement, so compliance does not depend on individual tribunal claims.

IER commentary also reinforces the long-standing weakness of broad employer discretion to refuse requests.

The RCN Employment Survey series demonstrates that access to flexible working in nursing remains heavily shaped by staffing shortages, workload pressure and reliance on goodwill, reinforcing the need for consultation processes that explicitly address these structural constraints rather than placing the burden on individual negotiation.

If you would like to see additional guidance for employees on flexible working, what topics do you think it should cover?

Additional guidance for employees should be practical for shift based staff and should explicitly address patient safety, rostering, caseload data, and reasonable adjustments.

It should explain common time-based options relevant to nursing, including predictable rotas, annualised hours, compressed patterns, term-time arrangements, job-share, phased returns, and the principles of e-rostering and self-rostering.

Guidance should clarify how flexible working can overlap with reasonable adjustments under equality law, including when to use an adjustments route rather than the statutory flexible working process and what steps to take if adjustments are delayed or refused.

It should include tailored advice for parents and carers, including how discrimination risks can arise, and it should signpost sources of support, including unions and professional bodies. Resources should also be designed for use by line managers and rostering teams, because consistency depends on both sides understanding the same process and options.

Finally, guidance should address conversations at the recruitment stage, reflecting evidence that people often avoid raising flexibility due to fear of rejection, and it should set out what good job design and job adverts look like when flexibility is genuinely embedded. This would make the system more usable for nursing staff and reduce inequitable outcomes at all stages of recruitment.

If you would like to see additional guidance for employees on flexible working, what format do you think it should take?

Additional guidance for employees should be delivered in formats that are accessible to shift based staff and useful to staff representatives. It should also include short case studies that illustrate workable flexibility in different nursing contexts in health and social care settings, (for example, acute wards, critical care, mental health community and inpatient settings, and wider community and primary care services), as well as education, management and research, because the feasible options differ by service model.

The guidance should provide template wording for requests, suggested agendas for consultation meetings, and examples of trial period agreements and written outcomes, to reduce uncertainty and improve quality of discussions. Short video explainers and recorded webinars should be provided so that staff who cannot attend live sessions can still access information.

The guidance should be written in plain language and made available in accessible formats, reflecting the consultation's inclusive approach and campaign group emphasis on reducing barriers to uptake.

Which, if any, of the following ways to address barriers to flexible working do you think we should explore further over the years ahead?

Policymakers should prioritise interventions that address the practical barriers to flexible working in safety-critical, shift-based sectors like nursing, while also tackling structural barriers highlighted by equality campaign groups.

The RCN Employment Survey findings consistently show that safe staffing shortages and workload intensity remain core barriers to flexible working in nursing, suggesting that future policy reform must engage with workforce capacity and rostering systems if flexibility is to be delivered fairly and sustainably. Safe staffing should be treated as the foundation for sustainable flexibility, because persistent shortages constrain options and can create unfairness and burnout.

Employers should be supported to strengthen rostering through transparent e-rostering and supported self-rostering with patient-safety guardrails, because rostering is a key mechanism for flexibility in nursing.

As already discussed, recruitment transparency should be explored, including an advertising duty, so applicants can see what flexibility is available upfront and avoid taking roles that cannot meet their needs.

Equality and inclusion should be strengthened by improving the delivery of reasonable adjustments and ensuring that remote or hybrid options are considered where roles allow, while recognising where nursing care is required to be, or is best, delivered in person.

Fear of discrimination should be addressed through culture change, consistent decision-making, and monitoring of outcomes across groups. These priorities align with the consultation's aim to reduce inconsistency and make flexibility real rather than discretionary.