

Royal College of Nursing response to Make Work Pay: modernising the Agency Work Regulatory Framework

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.

About you

Question 1: Please indicate whether you are responding as:

a trade union or staff association (Royal College of Nursing)

Consultation questions

Question 1: Do you agree that the key objectives listed should underpin the regulations: ensuring fair remuneration; ensuring a wide- ranging coverage of protection; providing assurance for business? In your view, do the current regulations meet these objectives?

RCN agrees the regulations should be underpinned by fair remuneration, wide coverage of protection, and assurance for business, because nursing is safety-critical and temporary staff are routinely used to maintain safe cover and continuity of care.

Fair remuneration must mean workers receive the pay they are led to expect, without opaque or unexplained deductions. The TUC has documented how umbrella arrangements can involve unclear deductions and 'kickbacks' that reduce take-home pay and make accountability for pay and holiday problems harder to resolve for workers.

Protection must include both employment protections and speaking up protections, as raising concerns is integral to patient safety. The National Guardian's Office found many temporary workers feel they do not have a voice and that fear of losing shifts is a key barrier to speaking up.

Assurance for businesses must include system assurance that temporary staffing supply chains support safe practice, clear accountability and consistent standards.

Question 2b: How could the current regulations be adapted to better meet these objectives?

Current arrangements do not consistently meet the objectives, particularly on coverage of protection and fair remuneration when umbrella companies sit outside effective enforcement, with workers facing complex, opaque arrangements.

The TUC has argued umbrella chains can make working lives unnecessarily complicated, with workers bearing costs via deductions and struggling to resolve pay and holiday issues because responsibility for those issues is unclear.

From a nursing perspective, insecurity and confusion can deter staff from accepting shifts, increase churn, and undermine workforce resilience in services already dependent on temporary cover. The IER has highlighted evidence that agency workers can be in long-term roles but still experience lower take-home pay than employees in comparable jobs.

The National Guardian's Office reports persistent gaps between policy intent and lived experience, with barriers including fear of detriment, weak induction, limited system access, and lack of trust in processes.

The framework should be adapted by bringing umbrella companies within scope with clear, enforceable duties. This would include strengthening transparency standards and improving enforcement capacity and coordination.

Question 3: Do you have views on how the government can ensure that the distinction between the activities of employment agencies and employment businesses are clearly defined?

The government should clearly define this distinction through a functional test that reflects modern nursing workforce planning.

Classification should be determined by objective indicators such as who controls or influences pay, who holds the supply contract, who manages deployment/timesheets, and who is responsible for mandatory checks and worker suitability.

This is essential in health and care where agency staffing is significant and where failures in accountability can directly impact patient safety and fair treatment of nursing staff.

Question 4: Do you think the government should relax restrictions on how and when employment businesses can charge end hirers?

We do not support relaxing restrictions as they play an important role in ensuring transparency and preventing excessive or hidden costs within the supply chain.

TUC evidence highlights that reduced oversight of charging practices can incentivise opaque arrangements, while the IER notes that complex fee structures can obscure accountability.

In nursing, where agency staffing is critical, unclear or inflated charges can divert resources away from frontline care. Health campaign groups such as Keep Our NHS Public emphasise that financial inefficiencies ultimately impact patient services, with incident rates and handover failures associated with short-term agency staffing, particularly in maternity, emergency care and mental health services.

Maintaining clear limits and conditions on charging helps ensure fairness and supports responsible commissioning. Any changes should prioritise transparency and accountability rather than deregulation, ensuring that costs are clear and justified, and that the system operates in the best interests of both workers and patients.

Question 5: Do you agree that the principle that employment businesses cannot withhold, or threaten to withhold, payment for work done should be maintained? 5b) Please explain your answer.

RCN strongly agrees with this principle. It is vital for workforce stability and fair treatment.

In nursing, pay insecurity creates financial stress, reduces willingness to take short-notice shifts. This can impact attrition rates and have knock-on effects for safe staffing.

The TUC has documented problems affecting umbrella workers, including misleading deductions and lack of transparency over core terms and pay, which makes a clear 'pay for work done' rule essential and it must be enforced.

We therefore support retaining the principle and strengthening it through clearer accountability and enforcement.

Question 6: Do you agree that regulation 12 should place an obligation on umbrella companies to pay workers for all work done, including in situations where they have not received payment from an employment business?

We strongly agree with the principle of Regulation 12, as it is a fundamental tool in closing the protection gap in the agency framework.

The consultation explains that umbrella companies have often not been subject to the Conduct Regulations even though they handle pay, and that this has limited state enforcement action when complaints relate to umbrellas.

Umbrella models can make it difficult for workers to resolve pay, holiday and tax issues because the organisation paying them is not the organisation they work (or worked) for, and workers can face misleading deductions which reduce take-home pay. Requiring umbrellas to pay regardless of disputes prevents workers bearing the financial burden and effectively working for free when disputes arise between businesses and umbrella companies.

It is also worth noting that the main motivators for temporary worker taking shifts is due to their need for flexibility and control over their working pattern, which improves their work life balance and wellbeing. Financial stress from underpayment or misleading deductions could be counterproductive to this.

This matters because temporary staff are relied on to keep services running. Pay delays or disputes can reduce shift uptake across health and care, increase churn, and potentially destabilise patient care delivery.

Question 7: Is there additional information beyond requirements or authorisations required by law, and requirements or authorisations required by a relevant professional body or regulator, that should be obtained and provided to hirers under these regulations, rather than agreed to through contractual arrangements?

The RCN believes there may be additional information that should be obtained and shared beyond legal and professional requirements, particularly where it enhances patient safety and workforce quality.

TUC evidence highlights the importance of comprehensive information in reducing risk, while the IER emphasises the value of consistent standards. For nursing staff, relevant additional information could include verified employment history, references, and evidence of specific competencies relevant to the role/assignment.

These requirements should be proportionate and clearly defined to avoid unnecessary administrative burden. The RCN and health campaign groups stress that ensuring staff are appropriately qualified and competent is essential for safe patient care. While contractual arrangements can address some areas, core safety-related information should be standardised within regulations to ensure consistency and reliability across the sector.

Question 8: Where an umbrella company is involved, should the umbrella company be obliged to pass on any information they are aware of, relating to the two areas outlined above, to the relevant employment business (or to the end hirer when there is no employment business in the supply chain)?

Transparency across the supply chain is essential to ensure safe and effective workforce deployment. Information gaps can lead to reduced accountability and fragmented communication.

For nursing staff, incomplete information can result in mismatched placements or compliance risks. Health campaign groups highlight that clear and accurate information is critical for patient safety.

Umbrella companies should have a clear duty to share relevant information, supported by enforceable standards. This would help ensure that all parties have the necessary information to make informed decisions and maintain safety and high standards of care.

Question 9: Do you agree that additional obligations and safeguards should remain in place where the work -seeker will be required to work with vulnerable persons?

In health and care settings, this is essential to ensure patient safety and maintain public trust. For nursing staff, this includes thorough vetting, appropriate training, and clear accountability.

Organisations that support vulnerable people emphasise patients must be protected through strong regulatory oversight. For those who provide that care, The National Guardian's Office highlights the experiences of temporary workers who report unsafe workloads and being allocated challenging cases without support, and exclusion of these workers and obligations can elevate that risk.

The RCN supports maintaining and, where necessary, strengthening these additional protections to ensure the highest standards of care.

Question 10: Do you have views on how the processes relating to information gathering and sharing should be streamlined in order to facilitate workers taking up positions quickly and to reduce the administrative costs involved?

The RCN supports this provided it does not compromise safety or quality. Digital solutions could reduce duplication and improve efficiency, and simplifying processes can support compliance.

For nursing staff, faster and more efficient processes would enable quicker placement without sacrificing essential checks. However, timely workforce deployment is important, but not at the expense of patient safety. Reforms should focus on reducing duplication, improving data sharing, and standardising requirements, while maintaining robust safeguards.

Question 12: In your view, should the government make changes to the length of the qualifying period (12 weeks) after which agency workers are entitled to equal basic working and employment conditions, including equal pay?

RCN does not support changes that weaken equal treatment protections for agency workers, because perceived unfairness and lower take-home pay undermine retention in a workforce that already relies heavily on temporary staffing.

Agency workers often work full-time and even in long-term roles, yet can still take home less than employees in the same role.

IER analysis of the agency worker framework also notes how qualifying periods and avoidance can be used to dilute the core objective of equal treatment.

For nursing, assignment changes and redeployments can make qualifying thresholds hard to reach and extending the qualifying period could increase inequality.

If the government is seeking to make changes to the qualifying period, it should be to reduce it or remove it altogether, which echoes the calls made across the labour movement.

Question 14: Do you have any views on how the regulations listed above operate in practice, and whether there are any changes that the government should consider?

Regulations are often applied inconsistently, leading to confusion and variability in worker experience. This leads to challenges with enforcement and compliance, particularly in complex clinical settings.

For nursing staff, this can result in uncertainty around pay, rights, and responsibilities. Health campaign groups emphasise that workforce instability affects patient care and the RCN recommends stronger enforcement, clearer guidance, and improved accountability.

Standardisation of key processes and information would improve consistency, and the focus should be on ensuring that regulations are effective in practice in health and care.

Question 16: Do you agree that the key objectives listed should underpin the regulations: clarity for workers; pay transparency; proportionality?

Nursing staff, particularly those in temporary or agency roles, often face complex and opaque payment structures that undermine trust and financial security.

This lack of clarity contributes to exploitation and workforce attrition. Transparency is necessary for workers to understand pay, deductions, and employment status. For nursing, where staffing shortages already impact patient safety, getting the balance right is critical.

Clear, enforceable standards would support informed decision-making, reduce disputes, and improve retention. Workforce stability directly affects patient outcomes, reinforcing the need for robust and transparent regulations and guidance.

Question 17a: In your view, do the current regulations meet these objectives (above)?

Question 17b: How could the current regulations be adapted to better meet these objectives?

Current regulations do not fully meet these objectives. While there are formal requirements around information provision, in practice many nursing staff report confusion about pay structures, deductions, and employment status when engaged through intermediaries such as umbrella companies.

Inconsistent compliance and weak enforcement leads to a widespread variation in worker experience. In nursing, this creates uncertainty that can discourage engagement with agency work, exacerbating staffing pressures across health and care.

The National Guardian's Office reports transparency problems for agency workers, which often arise from inaccessible or missing information, linked to limited internet access, unclear reporting procedures, and inconsistent induction.

To better meet these objectives, the RCN is calling for strengthening requirements for standardised, upfront information. Workers should receive clear, comparable pay

breakdowns before accepting any assignment, including information on all deductions and fees.

Enforcement must be enhanced, with clear accountability so responsibility cannot be obscured between agencies and umbrella companies. Simplifying regulatory language would also improve clarity, ensuring workers can more easily understand their rights.

Further improvements can be made by targeting regulation at high-risk practices, such as opaque umbrella arrangements, while reducing unnecessary administrative duplication for compliant employers.

Question 18: Do you agree that those listed above represent the key pieces of information required to ensure transparency for work -seekers regarding how they will be engaged, how they will be paid and what type of work they will be doing?

Work-seekers must understand how they will be engaged, paid, and what work they will undertake in order to make informed decisions.

However, the RCN emphasises that this information must be sufficiently detailed and standardised to be meaningful. Partial or inconsistently presented information can still obscure the true nature of pay arrangements.

In health and care settings, understanding shift expectations, pay rates, and deductions is essential to planning work and maintaining financial stability. This enhanced Transparency for work-seekers supports workforce retention, which in turn benefits patient care. While the listed information is appropriate, its effectiveness depends on consistent, clear, and enforceable presentation.

Question 19: Do you have any views on when or how this information should be provided to work -seekers?

This information should be provided as early as possible, which in practical terms would mean before a worker agrees to be put forward for a role/assignment. It must be given in writing, in a clear and standardised format, allowing for meaningful comparison between opportunities/assignments. Updates should also be required whenever there is a change in assignment terms.

TUC research indicates that late or verbal disclosure undermines transparency and can lead to workers accepting roles without fully understanding pay or conditions. The IER similarly emphasises the importance of timing in enabling informed decision-making.

For nursing staff, who often work across multiple placements, timely information is essential to avoid financial uncertainty. Regulations should mandate early, written disclosure and ongoing updates to ensure workers remain fully informed throughout.

Question 20: Do you agree that where an umbrella company is offered to a worker as a means of providing payment, there should be an obligation on the umbrella company to provide a representative breakdown of how much they will charge for their services, and how deductions will be calculated?

The RCN strongly agrees with this principle. Many nursing staff report difficulty understanding how their gross pay translates into take-home pay when engaged through umbrella arrangements.

Opaque deductions can significantly reduce earnings, with evidence showing that this practice is prevalent across providers. A clear, itemised breakdown would improve transparency and allow workers to make informed choices. It would also help prevent misleading or exploitative practices.

This obligation should be mandatory, standardised, and enforceable, with penalties for non-compliance. Providing this information upfront would align with the broader objective of transparency set out in this consultation and help restore trust in agency and temporary work arrangements within the nursing workforce.

Question 21: Do you agree that the government should regulate to restrict the use of 'kickbacks' in the umbrella company market?

These practices distort fair competition and can incentivise employment businesses to prioritise financial arrangements over worker welfare. These practices weaken transparency and can indirectly lower workers' take-home pay.

For nursing staff, this undermines trust and can discourage engagement with agency work, worsening staffing shortages. Strong regulation is necessary to eliminate these practices, ensure fair competition, and protect workers.

Enforcement mechanisms must be robust, with clear penalties to deter non-compliance and ensure that the system operates in the best interests of nursing staff and patients.

Question 22: Which option would be, in your view, most effective at restricting the use of ‘kickbacks’ in the umbrella company market?

The most effective option would be one that directly prohibits financial incentives between umbrella companies and employment businesses linked to worker engagement. A clear ban is preferable to an approach that relies on disclosure from employers, which may not fully address the underlying issue.

Transparency alone is insufficient where structural incentives remain; removing financial drivers that encourage non-compliant behaviour is crucial.

In nursing, a straightforward prohibition would provide greater confidence that decisions about engagement are based on suitability and fairness rather than hidden financial arrangements. Ethical workforce practices are essential to maintaining patient safety and service quality, therefore an enforceable ban, supported by monitoring and penalties, will be the most effective approach.

Question 25: Do you agree that the key objectives listed should underpin the regulations?

Ensuring genuine worker choice, alongside clarity and transparency, is essential for fair engagement practices. Nursing staff must be able to understand and actively choose how they are engaged and paid, without coercion or undue influence. Limited or illusory choice undermines worker autonomy, while IER research shows that constrained options can contribute to poorer job quality.

The National Guardian’s Office evidence also shows that choice in work is limited where workers fear that challenging unsafe practice or speaking up will result in fewer shifts, blocking or being labelled as “troublesome or difficult”.

Embedding these objectives in regulation will help ensure that workers are empowered, informed, and protected, while also supporting a sustainable health and care workforce.

Question 26a: In your view, do the current regulations meet these objectives?

Question 26b: How could the current regulations be adapted to better meet these objectives?

In practice, many nursing staff report that choice is restricted, particularly where engagement through umbrella companies is presented as the default or only option. TUC evidence indicates that such practices can limit genuine autonomy, and IER research highlights inconsistencies in how choice is offered and communicated.

In nursing, the lack of real choice can lead to dissatisfaction and disengagement from agency work, exacerbating workforce shortages. Health groups have raised concerns about the impact of precarious working arrangements on patient care and that current regulations do not consistently ensure that workers can make informed and voluntary choices.

The RCN is calling for clearer requirements to ensure that all engagement options are presented transparently and without bias. Workers should be provided with comparable information on each option, including pay, rights, and deductions.

This enhancement would support greater autonomy and confidence in decision-making, and should be supported by strengthened enforcement and accountability.

Question 27: Do you agree that the government should regulate to ensure that workers cannot be forced to work through, or be paid via, an umbrella company?

Yes. Forcing workers to be paid in this way undermines worker autonomy and can expose individuals to opaque pay arrangements and reduced protections. The forced use of umbrella companies is associated with lower transparency and potential exploitation.

The requirement of nursing staff to use a particular payment model can create financial uncertainty and reduce trust in employment agreements. The changes should clearly prohibit any form of coercion, ensuring that workers retain genuine choice over how they are engaged and paid.

Question 28: Do you agree that the government proposal – regulating to restrict employment businesses from making work -finding services conditional upon workers using an umbrella company – is the most effective way of achieving this?

We broadly agree with this approach, as it's a key mechanism in addressing the reduction in choice nursing staff often face. We support the removal of pressures that constrain worker autonomy and we support the effectiveness of targeted regulatory interventions.

For nursing staff, this would help ensure that access to work is not contingent on accepting potentially disadvantageous arrangements. However, enforcement will be critical to ensure compliance and therefore welcome these changes provided it is accompanied by robust monitoring and clear penalties for breaches.

Question 29: Do you have any views on when a work -seeker should choose whether they would like to be engaged and paid through an umbrella company?

The RCN believes that workers should make this choice before accepting an assignment, with sufficient time and full information to consider their options, and the decision should not be rushed or made under pressure.

Early and transparent information is key to enabling informed choices, and timing is an important factor in the decision-making processes. For nursing staff, who may be balancing multiple roles and commitments, having clarity at an early stage is essential.

Regulations should require that choice is offered early, supported by clear and comprehensive information, and revisited if circumstances change.

Question 32: Do you agree that the government should regulate to prevent umbrella companies from opting out of the Conduct Regulations on behalf of workers?

Yes. Such opt-outs can significantly reduce protections and undermine the purpose of the regulatory framework. TUC evidence indicates that opt-out mechanisms are often poorly understood by workers and are a potential for misuse.

This can result in reduced rights and increased vulnerability, which are key considerations for staff and patients in health and care settings. Preventing opt-outs would help ensure that all workers benefit from baseline protections, regardless of how they are engaged, and the RCN views this as a crucial step to strengthen the overall effectiveness of the regulations.

Question 33: In your view, which option would be most effective at ensuring that the opt -out is not abused by businesses who seek to engage workers?

The most effective option would be one that removes or tightly restricts the ability to opt out altogether. Where opt-outs are permitted, they should require explicit, informed consent from the worker, with clear safeguards to prevent coercion.

Limiting opt-outs protects vulnerable workers and maintains enforceable safeguards. Strong protections are essential to ensure fair treatment and maintain trust in employment arrangements across health and care settings.

The RCN views a restrictive approach to opt-out mechanisms, combined with clear enforcement, as the strongest way to protect nursing staff and protect the quality of patient care.

Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

Already addressed in previous answers