

# Activate

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News, views and support for RCN activists

The cap's  
been  
scrapped

## Thank you to every activist who helped the RCN's Scrap the Cap campaign succeed

It was pressure from RCN members campaigning through the summer that led to Health Secretary Jeremy Hunt telling Parliament “the pay cap has been scrapped.” His announcement came only days after RCN General Secretary Janet Davies met politicians to discuss nursing issues including pay at the Conservative Party Conference in Manchester.

In response to a question about the effect of the pay cap on patients, Jeremy Hunt told MPs: “I can give you good news – the pay cap has been scrapped.”

Janet Davies said: “Jeremy Hunt has listened to the tens of thousands of nurses who made their feelings clear and we thank him for this categorical statement.

“He has put beyond all doubt that the pay cap is scrapped after a summer-long campaign by the RCN. Our members in every corner of the UK fought hard and can be proud of this achievement.

“The cap held pay below inflation and gave nurses year-on-year pay cuts. With a staffing crisis building, the Government is right to lift it.”

The RCN will now press for a fair pay settlement for nursing staff next year and made it clear that the Government must not fund a pay rise by raiding other NHS budgets.

“The next pay offer must not come in below inflation”, said Janet, adding, “Ministers cannot ask the NHS to make other cuts to pay for it – services must be given extra funding to cover the cost.”

## Library help

The RCN has created new webpages to help reps access library services and resources more easily. The online platform includes information on prioritised literature searches and advice on how to order library promotional materials. It also contains links to e-books, journals and resources on employment relations, conflict resolution and influencing.

“I hope this will help reps find information on how RCN library services can support them in their role,” said Kate Clark, RCN Information Manager.

A recent survey found that 85% of reps have used the RCN Library and Archive service and value it for their personal learning and development. The webpages have been created following feedback at the last RCN joint reps’ conference. Visit [www.rcn.org.uk/reps-library](http://www.rcn.org.uk/reps-library)

## New committee announced

The results are in from the elections for the RCN Trade Union Committee.

The committee will work to ensure the RCN develops as a modern progressive trade union making a positive difference to the working lives of nursing staff.

Those elected are: Carol Evans (Eastern region), Neil Thompson (East Midlands), Karen Sanders (London), Michael Appleby (Northern), Fiona Devlin (Northern Ireland)\*, Mike Travis (North West)\*, Diane Coleman (Scotland), Liz Jeremiah (South East), Lorrae Allford (South West)\*, Gaynor Jones (Wales)\*, Tracey Budding (West Midlands), Andrew Bassett-Scott Toogood (Yorkshire & the Humber)\*, Karen Pike (health practitioner member) and Katharine Youngs (student member).

Fiona Devlin said: “This is an opportunity for me to continue to influence the agenda at the highest level within the RCN and work to engage more of our members and strengthen our trade union activity.”

Andy Bassett-Scott Toogood added: “As a new committee we have such a lot to offer our members as now is such a challenging time for nursing. More than ever we need to be a ‘union.’”

Elections for the RCN Professional Nursing Committee, which will fulfil a vital role in helping the RCN to achieve its purpose as a royal college, are open until Wednesday 8 November. Visit <http://ersvotes.com/rcnpl7> to cast your vote.

Nominations for the South West and West Midlands seats on the RCN UK Stewards Committee are open until 30 October. Visit <http://tinyurl.com/stewards-committee>

*\*Elected unopposed*



## Health worries for nursing staff facing shortages



Members are under dangerous levels of stress as staff shortages stretch them to the limit, impacting upon their ability to provide safe patient care and maintain their own health and wellbeing.

A new RCN report, based on the experiences of more than 30,000 members, reveals more than half weren't able to take

sufficient breaks on their last shift. A similar number reported a shortfall in numbers of registered nursing staff, with two-thirds working unplanned extra time. Half of the shifts were reported to be 12 hours or more long.

“Hearing that staff don't have the time to stay hydrated, eat, or use the toilet is hugely worrying,” said Kim Sunley, RCN health

and safety lead. “Taking a break at work is not a luxury but a basic right protected by employment law.”

The RCN has called for UK-wide legislation to urgently address the chronic nursing shortages being faced by members and will launch a safe staffing campaign in May 2018. Download *A Shift in the Right Direction* from [www.rcn.org.uk/publications](http://www.rcn.org.uk/publications) and visit [www.rcn.org.uk/safestaffing](http://www.rcn.org.uk/safestaffing)

### 'At breaking point'

**“Going from crisis to crisis continuously is so incredibly stressful. Frontline staff feel like they're working on a battlefield. We don't know who to go to first. We are constantly having to prioritise, but some patients need your help just as urgently as the next. Something big has to change or I'm leaving. I am, as so many are, at breaking point.”**

*Adult acute nurse*

## NHS pay negotiations – where are we now?

## Can you help?



**Josie Irwin, RCN Head of Employment Relations, answers your questions**

### What has the Government said about scrapping the NHS pay cap?

On 10 October Jeremy Hunt himself gave a categorical statement to Parliament saying the cap is scrapped.

### Do we trust him?

He also talked about ‘flexible negotiations’ and ‘the need for a win-win’. The RCN has welcomed Mr Hunt’s categorical statement but has also made it clear that the pay offer must not come in below inflation and ministers cannot ask the NHS to make other cuts to pay for it. Services must be given extra funding to cover the cost.

### What do ‘flexible negotiations’ mean?

We want to explore this with Department of Health officials and NHS Employers urgently. We must also explore parameters for any talks, funding, timescales and the role of the NHS Pay Review Body.

### When will we get a pay offer for next year?

The deadline for submitting evidence to the NHS Pay Review Body has been extended to 18 December and the process now looks set to

run well into the new year. If this concludes later than 1 April we will need to secure a backdated award.

### What if the cap is lifted but the pay offer is poor?

The RCN’s negotiators will do their utmost to agree the best possible deal. Members will then have their say about any final agreement.

### What are we asking for?

Along with the other NHS unions the RCN has asked for an award at the level of inflation – currently 3.9% – plus a consolidated lump sum of £800 for all staff to start to make up the inflationary gap that has opened up since 2010. We want an investment for the future to make improvements to Agenda for Change to help retention and productivity.



Activists can help members struggling to get reasonable adjustments made at work by sharing their successes in an online form. Tell us about the changes you’ve instigated to allow yourself or others to work or study with an impairment, or return to work or university following ill health. “We want to know what conditions lead to successful adjustments and what specific adjustments can be made,” said RCN peer support officer Holly Chadd. Visit <http://tiny.cc/reasonableadjustments>

## Retire and return

New Department of Health guidance provides advice on re-employing staff who’ve retired and receive an NHS pension. It aims to help employers justify decisions to recruit staff who “retire and return” in terms of service need and value for money. This helps the NHS retain the skills, knowledge and experience necessary to deliver safe patient care. Visit <http://tiny.cc/retireandreturn>

## Reps’ committees

The RCN UK Learning Representatives, Safety Representatives and Stewards Committees contribute to the development of RCN policies relating to workplace lifelong learning and career development, health and safety, and employment rights. Visit <http://tiny.cc/reps> to find out more about their work and their terms of reference. Email [governance.support@rcn.org.uk](mailto:governance.support@rcn.org.uk) to contact your local committee member.

## You made sure the cap was scrapped



### RCN Chair of Council Michael Brown stresses the importance of your work

I want to thank every single activist for the hard work you've put into campaigning this summer. Your immense dedication has led to a landmark decision by the Government to scrap the cap.

Activists were at the centre of the campaign. You mobilised members and built public support to put pressure on the Prime Minister and her ministers. You encouraged people to become pay champions and were at the centre of our nationwide days of action. You were so determined to make your views known there was actually an event somewhere in the UK every day of the summer.

And let's not forget our biggest ever national rally outside Parliament in September. Activists from around the country stood side by side promoting our message.

We worked alongside our sister unions, submitting a joint letter to the prime minister and a joint pay claim with all the other health unions last month. When politicians started pushing to lift the pay cap after the Queen's speech, they quoted us. When Labour proposed a motion lifting the pay cap, the DUP said they would support it and the Government decided not to oppose it because they knew they'd lose.

Now as we await the Government's next move we are clear: the next pay award must not come in below inflation and ministers cannot ask the NHS to make other cuts to pay for it. The Government now knows we are a force to be reckoned with.

*"We are a force to be reckoned with"*

## ASK AN ADVISER



### Handovers



#### What if there's no one to handover to?

Members may approach you for advice if they're a registered nurse but their registered colleague on the next shift is unable to come into work.

If there's no registered nurse to take charge of the next shift they're bound by their NMC Code to act in the best interests of their patients. However, they may feel tired after a long shift and feel it would be unsafe to continue working.

If they're working in a care home, they should contact the registered manager who has 24-hour responsibility for the home. The registered manager (who should be a registered nurse) may have to cover the shift themselves. If they're working in the NHS, or for a large private organisation, advise them to follow the local policy for escalating issues.

Please advise members to always complete an incident form. If this is a recurring problem, the issue should be raised with senior managers.

Read more at <http://tiny.cc/handovers>

**For more information, speak in confidence to an RCN Direct adviser any time between 8.30am and 8.30pm, 365 days per year.**

**RCN DIRECT**  
[www.rcn.org.uk/direct](http://www.rcn.org.uk/direct)  
**0345 772 6100**

## View from the frontline



### Someone by your side

A lot of my work is about representing individual members who are having difficulties at work, such as warnings over sickness absence. They need someone who is respected and knowledgeable to stand up and advocate for them. While these may seem small issues, this is the kind of day-to-day work that has a big impact on people's lives.

I'm always keen to try to ensure members get the best possible representation, so they never feel alone and unsupported. I'm very aware that we're reps, not lawyers, and that we're in a local employment disciplinary process and not a court of law. But I firmly believe that we must do everything we can to make sure our members' voices are heard and where needed, untruths are exposed. Having someone speak on a member's behalf means they avoid a direct confrontation with managers or any backlash afterwards.

As a steward, I try to be clear and honest about what I think the likely result of a disciplinary will be, even if it's not what the person is seeking. But I try to stay positive too and have achieved some great outcomes for members, even when the situation hasn't looked promising.

Even if the member is eventually dismissed, I think having someone on their side throughout, who they trust to do the best for them, makes a massive difference to how they feel. Often the member will tell me they have received no support at all, aside from their RCN rep.

**Jayne Greenop, RCN steward**

## LEGAL UPDATE



### Defining public interest

The Employment Rights Act 1996 provides a legal remedy to workers who are subject to a detriment or are unfairly dismissed as a result of disclosing information about certain matters (known as a "protected disclosure").

A qualifying protected disclosure can relate to crimes, breaches of a legal obligation, miscarriages of justice, dangers to health and safety or the environment and to the concealing of evidence relating to any of these. In 2013 the Act was amended requiring any such disclosure to also be "in the public interest".

In the case of *Chesterton Global Ltd v Mohamed Nurmohamed (2017)*, estate agent Mr Nurmohamed claimed he was dismissed by his employer due to a protected disclosure he made regarding their alleged financial irregularity, which he argued had negatively affected the commission he and 100 colleagues were paid.

His claim succeeded before the employment tribunal and his employer's appeal was dismissed by the employment appeal tribunal.

On the face of it, Mr Nurmohamed's disclosure related to his own personal contractual rights. But the Court of Appeal noted Parliament had failed to define "in the public interest" in the Act, and therefore it had to determine whether a disclosure in the private interest of the worker becomes in the public interest if it serves the private interest of other workers as well.

The court concluded that even if the interest is personal, it may be reasonable to regard a disclosure as also being in the public interest. It said individual employment tribunals must determine this on the facts of each case, a decision which potentially widens the public interest test in whistleblowing cases.

**Joanne Galbraith-Marten**  
RCN Head of Legal  
(Employment)



## NHS injury allowance: a steward reflects

**It's been four years since NHS injury benefits were replaced by an injury allowance but some employers are lagging behind in properly implementing the change. Steward Phil Noyes reflects on a recent case where he pushed back to get the best outcome**

I supported a member who'd fallen on a slippery pavement outside a patient's house. Her injury had long-term consequences and she found herself on lengthy sick leave and facing half pay.

I was disappointed the allowance wasn't immediately agreed, but was confident that we'd see that decision overturned on appeal.

However, the appeal held that she hadn't been clear about what footwear she had on at the time, and that it was a poor decision to have a conversation with the patient's daughter outside the house.

We objected to the line of reasoning, and with my support the member took out a grievance regarding the process.

Fortunately the stage three grievance panel saw the clear arguments we were making and overturned the decision.

They also made recommendations on how NHS injury allowance decisions should be made and for the trust to set up an appeals process involving senior managers from outside the service area.

It's worth checking what process you have in your organisation, and if there's not a specific procedure, ask why not.

### Phil's top tips for members

- Report the incident at the earliest opportunity
- If an injury isn't immediately apparent you should ask colleagues to confirm there was a link to the incident.
- Seek support from an RCN safety rep or steward.
- If your GP agrees the link is likely, make sure any sick or fit notes reflect that.
- Make sure your employer sees any consultant letters which support your claim.
- Prepare a clear timeline of the incident, symptoms and effects.



### Find out more

The NHS injury allowance provides support for staff who sustain an injury, disease or other health condition which is attributable to their employment. The allowance is limited to 12 months, and employers make decisions on eligibility and appeals. Find out more at:

- NHS Employers: <http://tiny.cc/injuryallowance>
- RCN advice: [www.rcn.org.uk/get-help/rcn-advice/nhs-injury-allowance](http://www.rcn.org.uk/get-help/rcn-advice/nhs-injury-allowance)



Phil Noyes

### The RCN view

RCN Employment Relations Adviser Nicola Lee says: "This payment has been in place for a number of years now, so there is no excuse for employers not to have robust procedures in place for making timely decisions about eligibility.

"Some employers require members to complete an application form, which you should fill in at the earliest opportunity. However, some don't so you should alert your manager of your entitlement as soon as possible so that the 'work-relatedness' of your absence can be recorded promptly.

"Remember, injury allowance will only be payable when your income is reduced."

## Honouring our unsung heroes

### A new book celebrates the huge difference RCN reps make to members' lives

Every day in workplaces all over the country RCN reps are toiling away, often quietly and behind the scenes, to support members and improve their working lives.

Now a new RCN publication aims to put reps firmly in the spotlight, celebrating their many achievements through their own stories, experiences and a variety of photographs.

“We think it’s time we honoured our unsung heroes,” says Mairead O’Siochru, the staff member who’s led the work. “This book helps us to understand much more about what reps do and how important they are to all of us.”

Launching at the joint reps’ conference later this week, *The Value of Reps: In Our Own Words*, includes contributions from almost two dozen stewards, learning and safety reps from all four corners of the UK.

It’s based on interviews and photographs taken at an event held at the RCN’s headquarters in June, where members were invited to become “changemakers”, sharing their experiences of what being a rep means to them.

### An invaluable resource

Among those participating was West Midlands steward Nasreen Rafiq (pictured, right). “Being part of this work has been a real privilege,” she says. “I think the book will be an invaluable resource, especially for those considering the role or who have just finished training.

“It has some really positive messages about how rewarding it is to help members at a time of need, especially when they feel they have no one else to turn to.”

Divided into two halves, the book looks at what reps give to members, alongside what they get out of the role, with many talking about how becoming a rep has changed their own life for the better.

“Before I became a rep, I wouldn’t have had the confidence to stand up in front of a room full of people and talk, not in a million years,



*“It has some really positive messages about how rewarding it is to help members at a time of need”*



but now I can,” says South East steward Liz Jeremiah, in one of the many stories featured in the book.

Others speak frankly about how they have been able to help those facing the most challenging circumstances.

Recalling one particularly memorable case, West Midlands steward Bev Baker says: “When the member realised she could still carry on working in the job she loved, it was an extraordinary moment and something I’ll never forget. It will stay with me for the rest of my life. If I’d not been there she would have given up her job.”

Another of those who has taken part is Wales learning rep and steward Jeremy Davies. “Becoming a changemaker has been wonderful,” he says. “I hope our work continues into the future, helping to move the profession forward and inspiring others to join us.”

Download your copy from [www.rcn.org.uk/publications](http://www.rcn.org.uk/publications) from next week.

# NOTICEBOARD

## Permanent residency

### Don't delay with immigration applications

The RCN is advising members from the European Economic Area (EEA) and European Union (EU) to contact the RCN if they wish to apply for permanent residency in the UK. Generally EEA citizens who are working qualify for the right of residence, but since 2011, students or self-sufficient people must have comprehensive sickness insurance.

Sophia Barrett, RCN Senior Immigration Adviser and Solicitor, said: "Some members have contacted us because they didn't know they had to have personal health cover while they were students and they're concerned this could be used to decline their applications for permanent residency. In some cases nurses won't be affected but it's a complicated situation so please get in touch."

Given the uncertainty surrounding the UK's Brexit plans in the next few years, the RCN is advising members to plan ahead.

"If you're in a position to apply for permanent residency now, please do so without delay. If not, start collecting your payslips, sick notes and insurance documentation. The referendum result has made everything just that little bit trickier," added Sophia.

**RCN members already in the UK can get free, confidential assistance on immigration issues. To make an appointment, call 0345 772 6100.**

## Stand up against violence



The RCN is supporting a campaign which encourages trade unionists to oppose violence and discrimination against women.

The White Ribbon Campaign works to educate, motivate and bring together men and women to campaign for an end to violence against women and girls and promote gender equality.

On 25 November, the International Day for the Eradication of Violence Against Women, men are encouraged to wear a white ribbon as an act of solidarity and to encourage people to talk and think about the issue.

"It's hoped this will empower women who are suffering violence and discrimination in the knowledge that they have the support of their male colleagues. It's also a great opportunity for reps to start a conversation and negotiate model policies and agreements with employers," said Wendy Irwin, RCN diversity lead.

Find out more at [www.whiteribboncampaign.co.uk](http://www.whiteribboncampaign.co.uk)

## Going to Congress next year?



Any member can apply to represent their branch or forum as a voting member at next year's Congress in Belfast. Being a voting member is a great opportunity to play an active role in the RCN as they sit in the main hall during the Congress debates and vote on resolutions. It also means you will have your travel, accommodation and subsistence costs covered.

Apply for funding as a voting member before 1 November or find out about other sources of funding available through your country and region at [www.rcn.org.uk/congressfunding](http://www.rcn.org.uk/congressfunding)

If you're attending as a self-funded delegate, please register your interest to stay up-to-date and receive information about discounted flights with FlyBe at [www.rcn.org.uk/congress/register](http://www.rcn.org.uk/congress/register)

**RCN Award of Merit winners will be announced at Congress. If you'd like to nominate someone who has dedicated their time and energy to helping RCN members visit [www.rcn.org.uk/get-involved/rcn-awards/rcn-award-of-merit](http://www.rcn.org.uk/get-involved/rcn-awards/rcn-award-of-merit)**

## Tools of the trade



*Taking Industrial Action – A Legal Guide* helps reps understand the restrictions on balloting, notice and picketing introduced in the Trade Union Act 2016.

It also looks at other types of action unions take when a dispute arises. Read the LRD Publications booklet at <http://tiny.cc/indaction>

A mobile phone app has been used to improve the way the staff reward package is communicated at North Tees and Hartlepool NHS Foundation Trust. Find out more at <http://tiny.cc/mobileapp>

**If you have any queries about this information, please email RCN Library and Archive Services at [rcn.library@rcn.org.uk](mailto:rcn.library@rcn.org.uk)**