

Royal College of Nursing evidence submission to the Labour Market Enforcement Strategy 2025 to 2026: call for evidence

13 December 2024

The Royal College of Nursing (RCN) is the largest professional body and trade union for nursing staff in the world. We represent around half a million members who are registered nurses, midwives, students, and nursing support workers across the United Kingdom and beyond.

Employment rights enforcement priorities and governance

1. Briefly, and in no more than 100 words, what do you believe should be the priorities for employment rights enforcement as we transition to the FWA?

The RCN is concerned by increasing reports of unethical and exploitative employment practices faced by migrant workers in the care sector. It is vital that the FWA establishes safe reporting pathways so that workers feel able to report employers. Ending the exploitation of migrant workers will strengthen labour enforcement for all workers.

To ensure labour market enforcement is effective, the FWA should provide oversight and make clear the remit of other regulatory bodies so that responsibilities of each agency is understood by the public and key stakeholders.

2. The FWA will take some time to be set up. What should priorities be for the enforcement bodies before then? What should be FWA medium to longer-term priorities and why?

The RCN has identified the following priorities ahead of the formation of the FWA:

- For the remit of the Gangmasters and Labour Abuse Authority to be expanded to include the power to regulate labour provision in the care sector. Given the prevalence of labour abuse in the sector, urgent action is needed to ensure compliance with labour standards and hold rogue employers and agencies to account. Without stronger regulation, the RCN is concerned that unscrupulous agencies and employers will continue their exploitation of vulnerable workers. It is our expectation that this remit will be transferred to the FWA once it is set up.
- The RCN continues to call for an urgent Government investigation into exploitation of migrant staff in the social care sector. In June 2024, in response to the RCN's calls, the Labour Party committed to an investigation into exploitation which would be led by the proposed single enforcement body (known now as the Fair Work Agency).¹ However, considering the timeframe for establishing the Fair Work Agency (FWA) and the prevalence of labour abuses in the sector it is evident that an investigation is needed before the FWA's formation.

- The UK Government should undertake a review into the work visa sponsorship system and evaluate the benefits of alternative systems. Consideration should be given to an alternative visa system that would provide greater flexibility and safeguards for migrant workers to reduce the power of employers to weaponise the immigration status of their employees.

3. **The FWA will have a statutory duty to publish annual reports and a triannual strategy, overseen by a social partnership board with tripartite representation from business representatives, trade unions and independent experts. What data and reporting should the FWA publish to ensure good accountability and transparency, via these publications or otherwise?**

N/A

Communication and engagement

1. **How do you expect stakeholders to be engaged by the FWA and what do you see as the benefits?**

Regular communication and proactive collaboration between an FWA and stakeholders is essential and should be a key priority. If done effectively, there are opportunities to build trust, promote mutual understanding, reduce conflicts and errors, and support a culture of respect and compliance in workplaces.

Trade unions must be key stakeholders for the FWA.ⁱⁱ The RCN is aware of large groups of members and vulnerable workers who will benefit from FWA assistance and can work with the FWA to highlight both novel and common instances of abuse. Partnership working with trade unions could therefore provide extensive information on the realities of migrant workers employed in the sector.

2. **By which channels might awareness of the FWA be increased before and once it is established and why do you recommend them?**

Trade union engagement is vital for reaching workers who might not access traditional media, and for identifying the reality of many workers on the shop floor. Partnerships with trade unions can help fill this information gap.

3. **Where can communications around compliance and enforcement be improved such that workers are aware of their rights and their obligations? What evidence do you have that they work?**

N/A

4. **Who do you see as the key partners for the FWA thinking both of other agencies or wider stakeholders (for example, by sector) and why?**

Encouraging vulnerable and exploited workers to approach the FWA will require them to be aware and trustful of the agency and understand how to make a complaint. Trade unions can be key partners in delivering this intelligence.

The priority of the FWA must be labour enforcement, and not immigration enforcement. For labour enforcement to be effective it is vital that migrant workers feel able to come forward and have safe reporting pathways. As such it is necessary that labour enforcement remains independent of immigration enforcement. Immigration data should not be shared with immigration enforcement without active and informed consent of workers.ⁱⁱⁱ Immigration enforcement actions, for example, must never be carried out alongside inspections.^{iv}

The FWA should begin a public campaign, with multilingual materials, informing workers of the changes, and how it may affect them.^v Workers are more likely to seek support when that are well informed. There must also be clearly signposted and accessible routes for workers to be able to make anonymised complaints to the FWA.

The FWA must also collaborate with other regulators such as the Health and Safety Executive and ensure that information is shared between the regulators. The RCN considers that organisations with poor employment standards may likely have poor health and safety standards which could put workers at risk of serious or fatal injury or work-related illness.

Resourcing and prioritisation

1. What should the 3 enforcement bodies be doing now to ensure the FWA achieves sustained and lasting improvements in employer compliance?

Ahead of the FWA being established it is necessary for Government to undertake a review of the current sponsorship system and the risk it poses for migrant worker exploitation.

The RCN is concerned that the current sponsorship system for migrant workers which requires applicants to obtain a certificate of sponsorship from a licensed employer may hinder improvements in labour standards in the health and social care sector.

The Migration Advisory Committee (MAC) have recognised the increased risk of exploitation where the ability migrant workers to switch employers is restricted, and for live-in-workers in particular the MAC have recommended that sponsorship should be provided by an umbrella body rather than individual employers.^{vi}

The sponsorship system currently ties a migrant's right to work and residency in the UK to their employment at a specific employer, this creates an additional barrier for migrant workers to change jobs. The RCN considers that this requirement exacerbates the unequal power dynamic between migrant staff and sponsoring employers and leaves

many migrant workers feeling as though they have no option but to remain in exploitative working conditions.

In several member cases that the RCN has supported, staff have been threatened with the possibility of revoking their sponsorship and of deportation. While employers do not have the ability to directly deport staff, they are able to trigger a process which would see migrant workers' right to remain in the UK removed if they are unable to find a new sponsor within 60 days. One RCN member reported that they were made to read and sign a contract offer within 30 minutes upon arrival. If the member did not accept, they were told that the employment offer, and their sponsorship, would be withdrawn. The member reported that managers threaten to 'send them home' if the new contract is not signed.

2. How should the FWA prioritise its resource between compliance measures (helping employers) and enforcement measures (punishing poor practice, deliberate and serious non-compliance)? How might its success in both areas be assessed?

To improve employer compliance, the three agencies should proactively engage to align priorities and ways of identifying 'rogue' employers, such as those that abuse their position as visa sponsors.

Government's announcement on the 28th of November 2024 to introduce tougher sanctions on non-compliant employers was welcomed, and we look forward to evaluating the success of these measures.^{vii} However, Government must also consider protections for migrant workers sponsored by employers who lose their sponsorship licence, for example through an extension of the 60-day notice period which a worker has to find a new sponsor.

3. What are the key labour market non-compliance risks for which the FWA needs to be ready? What is the evidence for this?

The RCN agrees with the Director for Labour Market Enforcement assessment of the care sector as high risk given the prevalence of non-compliance with labour standards and cases of modern slavery.^{viii, ix, x} Approximately 185,000 care workers were recruited internationally between 2022-2024 and estimates suggest that 540,000 new posts in social care will need to be created by 2040.^{xi} Migrant workers make a key contribution to the health and wellbeing of the country, but without urgent action these staff remain vulnerable to exploitation.

The Gangmasters Labour Abuse Authority (GLAA) reports evidence of labour abuse in the sector, including overcrowded accommodation, payment below minimum wage, and debt bondage.^{xii} The care home / social care sector was the most reported sector in 2023/2024, accounting for 61% of reports/referrals.^{xiii} Unseen UK has reported a 30% increase in potential victims of modern slavery indicated in the care sector, from 708 in 2022 to 918 in 2023. This represents an increase of 766% since 2021, where 106 potential victims of modern slavery were reported. In 2023, 20% of labour exploitation cases and 28% of potential victims were related to exploitation within the care sector.^{xiv}

The RCN has received increasing reports of unethical and exploitative employment practices faced by internationally recruited staff in the care sector. These include reports of repayment fees, which RCN members have reported to be as high as £25,000. Repayment fees are fees which are levied against workers when they attempt to leave their employment before a specified time. Between 2020 and 2023, the number of RCN members reaching out to us for support regarding repayment fees has almost doubled year on year.^{xv} The RCN is deeply concerned that in many of these cases these fees are so high that it would make it near impossible for a worker to leave employment situations that are exploitative.

The RCN is aware of cases where wages are withheld to enforce payment of these fees. Internationally educated members also report being offered fraudulent job offers. In some cases, nursing staff have been pressured to pay thousands of pounds in illegal work finding fees.

RCN members also report having less favourable terms than were advertised or than their UK-trained colleagues. In one example an RCN member's wage was reduced after they were already in employment. The member of staff was told that they would have to work additional hours to meet the £26,000 a year salary requirement for their visa, or risk deportation. The RCN is also aware of cases where staff have been told explicitly that their lower pay was due to them being an international recruit. This includes a case where a member was told the employer's policy of additional pay on a bank holiday only applied to domestic recruits.

Some RCN members report being housed by their employers in overcrowded and substandard accommodation, in some cases without access to a kitchen. RCN members have also reported being asked to leave their accommodation without notice by their employers, with no assistance given to them to find alternative housing.

4. Holiday pay will be a new area of enforcement for the FWA. Where are the key priority areas as regards holiday pay non-compliance (for example, by employment model or by sector) and how might these risks be tackled?

Key priority areas with regards to holiday pay:

- Ensure that workers on irregular working hours or zero-hour contracts are paid appropriately for their holiday. These workers are dependent on employers accurately tracking their hours to avoid underpayment or non-payment of holiday entitlements.
- Assurance that all workers receive their statutory entitlement to holiday which is a minimum 5.6 weeks including public holiday.
- Employers should ensure their workers take their statutory holiday entitlement within the annual leave year and advise them it will be lost if not done so.
- Ensure that staff are paid at the same rate for holiday as they are when working, including normal regular pay and enhancement for overtime or unsociable hours.

- Payment in lieu for any accrued statutory holiday when workers leave their employment as well as for any additional holiday unless their contract states otherwise.
- Compliance amongst smaller care providers, who may have limited financial or administrative resources.

To address these risks, secure reporting channels need to be established to allow workers to report breaches without fear of retaliation. Trade unions can help educate vulnerable workers on their holiday entitlement. Public compliance reports would encourage industry transparency and set mandates for improvement. Finally, tailored guidance and tools for calculating holiday pay can support small care providers comply with regulations.

Moving towards a FWA

1. What do you value about the present practices of the 3 employment bodies that you want to see continued by the FWA and why?
2. What would you like to see done differently?
3. The enforcement bodies currently use different approaches for compliance and enforcement – which of these do you think are most effective and should therefore be preferred for the FWA and why?
4. In establishing the FWA is there any good practice you would like to highlight from other UK and/or international regulators/enforcement bodies, either in the labour market enforcement space or beyond?

Labour inspectors are critical to the enforcement of legal protections related to working conditions as well as the protection of workers, including their safety, health and welfare. In industrial market economies such as the UK, the International Labour Organisation (ILO) suggests a benchmark of 1 labour market inspector per 10,000 workers.^{xvi}

The UK is currently falling far short of this benchmark, latest figures suggest the UK has only 0.29 labour inspectors per 10,000.^{xvii} Out of 43 high income countries where data relating to the number of labour inspectors is collected by the ILO, the UK ranks 37th for number of labour inspectors per 10,000 workers.^{xviii} Significant investment into labour enforcement will be required to tackle the scale of the crisis at hand. Recent cuts to the GLAA reduced their budget from £7.77 million in 2023–24 to £6.26 million in 2024–25.^{xix}

For the FWA to function effectively, it must be well funded and resourced to carry out proactive inspections that would support the UK to meet ILO benchmarks. This would reduce the burden on individual workers to report labour abuses, when they may not feel confident enough to do so and place emphasis on proactive compliance with the FWA.

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- ⁱ [Labour pledges to investigate treatment of migrant workers in care sector | Immigration and asylum | The Guardian](#)
- ⁱⁱ The Employment Rights Bill requires the Secretary of State to create an advisory board with representation from trade unions, which will provide advice to the FWA - [Fair Work Agency](#)
- ⁱⁱⁱ [FLEX_Caring-About-Workers-Rights-Briefing.pdf](#)
- ^{iv} [From rights to reality: Designing a Fair Work Agency that delivers for the most vulnerable workers - Citizens Advice](#)
- ^v [Employment Rights Bill briefing: what's needed to support the most vulnerable workers | Work Rights Centre](#)
- ^{vi} [Migration Advisory Committee: annual report, 2022 - GOV.UK](#)
- ^{vii} [Rogue employers will be banned from hiring overseas workers - GOV.UK](#)
- ^{viii} [Labour Market Enforcement Strategy 2021 to 2022 - GOV.UK \(www.gov.uk\)](#)
- ^{ix} [Labour Market Enforcement Strategy 2022 to 2023 - GOV.UK \(www.gov.uk\)](#)
- ^x [United Kingdom Labour Market Enforcement Strategy 2023/24 – Annex A: Emerging issues around Compliance and Enforcement in the UK Labour Market Emerging issues around Compliance and Enforcement in the UK Labour Market \(publishing.service.gov.uk\)](#)
- ^{xi} [The state of the adult social care sector and workforce in England, 2024](#)
- ^{xii} [Industry Profile - Care - 2020 - GLAA](#)
- ^{xiii} [GLAA Intelligence Picture Q1 2024-2025 \(April-June 2024\) - GLAA](#)
- ^{xiv} [Calls to modern slavery helpline rise for fourth year running - Unseen](#)
- ^{xv} RCN analysis of RCN member enquiries (2020, 12; 2021, 34; 2022, 64; 2023, 121)
- ^{xvi} [Microsoft Word - GB297-ESP-3-2006-10-0196-1-En.doc](#)
- ^{xvii} [Safety in numbers: what labour inspection data tells us - ILOSTAT](#)
- ^{xviii} [Safety in numbers: what labour inspection data tells us - ILOSTAT](#)
- ^{xix} [House of Lords - The Modern Slavery Act 2015: becoming world-leading again - Modern Slavery Act 2015 Committee](#)