Royal College of Nursing response to the European Commission consultation on Modernising Labour Law to meet the Challenges of the 21st Century.

With a membership of over 390,000 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.

General Remarks
The Royal College of Nursing (RCN) welcomes the Green Paper and the debate on the need for a more responsive regulatory framework to support a flexible labour market. However the Green Paper seems to make an assumption that a flexible labour market results in economic growth without providing the evidence for this position. We believe that employment prospects are driven by demand for the services or products of an organisation and that employers are not influenced by employment legislation. This is particularly the case for larger employers although small employers may believe that employment legislation places too stringent demands upon them.

As a member of the European Public Services Union (EPSU) the RCN supports the joint CEMR / EPSU Consultation response submitted prior to the consultation deadline.

In addition to the key issues raised in the joint response, we would like to bring the European Commission’s attention to the following points:

Employment Rights and the definition of the ‘worker’
- The RCN encourages the European Commission to establish a clear definition of what is means to be a ‘worker’ in order to guarantee consistency throughout all aspects of EU labour law.

- The European Commission should seek to establish minimum standards relating to employment rights across the EU. However the RCN believes any regulation to this effect should be agreed and implemented according to the principle of subsidiarity, and should not be detrimental to organisations with few employees. Any changes must be based on the input of key stakeholders including trade unions. The Open Method of Coordination may be the best mechanism to achieve this.

Flexicurity and the Social Dialogue process
- The RCN believes that flexicurity can only be achieved by addressing the needs of both employees and employers. At present these two groups have a different understanding of flexicurity and it may be difficult to reconcile their views. Employers see flexibility as being able to adjust the workforce according to
demands of production while employees see flexicurity in terms of how work can support their work life balance. The European Commission has a role to play in developing a common understanding of flexicurity.

- The RCN calls on the European Commission to provide more evidence that a flexible labour market benefits economic growth.

- The social dialogue process should be used as a mechanism to bring employers and employees together to debate a strategy to support creating more and better jobs, while simultaneously reinforcing a stronger European social model. The RCN believes that improving the quality and efficiency of public services will improve the quality of employment and in this respect it encourages the European Commission to support measures which facilitate collective agreements between employers and social partners.

Gender and Age equality

- In response to the European Commission Green Paper the RCN does not see any worsening of employment opportunities in the UK for women; in fact women are an increasing percentage of the workforce. The RCN supports action at EU level to promote the active participation of women in the labour market, particularly in Member States where participation is below average. As many women are responsible for the provision of care services, the RCN calls on the European Commission to encourage local government services to provide adequate resources to the care services sector.

- New legislation on age discrimination should be introduced to improve employment opportunities for older workers.

Portability of pensions and redundancy provisions

- The RCN believes that it would be desirable to modernise labour law so that employees would not be disadvantaged if they changed employers or moved to a different type of employment contract. Our experience of the NHS is that for some terms and conditions eg redundancy, all years of service within the NHS are recognised even though the employee may have changed jobs within the NHS. We suggest that it may be possible to establish a national fund through insurance contributions to extend this to private employers. We understand that this is the situation in Austria and we believe that this model is worthy of further exploration. Pensions can be portable so why not redundancy provisions?

Protection of Agency workers

- The RCN is concerned by the lack of employment protection for Agency Workers. The RCN encourages the European Commission to amend employment legislation to ensure that Agency Workers are guaranteed equal job security protection as non agency workers.

Working Time Directive

- The RCN calls on the European Commission to remove the opt out clause from the Working Time Regulations. We believe that the retention of the opt out clause compromises the health and safety of the healthcare professional and the patient.