

Organisational responses

Ensuring nurses and midwives have the necessary knowledge of English to practise safely in the UK

Thank you for taking part in this Nursing and Midwifery Council (NMC) consultation. The aims of this consultation are to seek the views of stakeholders on the process that we propose to put in place for:

- European Economic Area (EEA) trained nurses and midwives who apply for registration;
- Nurses and midwives seeking readmission to our register following a lapse of registration; and
- Investigating concerns about the language competence of nurses and midwives on our register.

The [consultation documents](#) provide the background information in relation to our proposals. We are seeking your views to inform our decisions.

The consultation runs for 12 weeks from Monday 1st of June 2015 and closes on Friday 21st of August 2015 (at 12.00pm).

As members of the Market Research Society (MRS) we ensure the highest standards of professional research and privacy in using the information that you provide. We keep to the MRS code of conduct. Responses to the survey will be analysed as a whole and not linked to individual participants.

When you have completed the questions on this form, please email it to: consultations@nmc-uk.org. Please also use this email to report any problems.

New nurses and midwives

Please see consultation document - section 1: providing evidence of language competence at initial registration for EEA trained nurses and midwives (points 17 to 22).

1. To what extent do you agree or disagree that the types of evidence (we propose to accept to demonstrate English language competence) are fair and appropriate?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

I don't know

Please explain your answer:

The RCN agrees in principle that the proposed types of evidence listed in the consultation should be used to determine whether EEA trained nurses and midwives meet the registration requirements. However under point 19.2 where proposed evidence could include pre-registration programmes where 75% of a nurse or midwife's practical education was undertaken in English, it is unclear how this could be verified.

It is also worth noting that apart from those providing evidence of undertaking a specific language test, the other forms of evidence do not relate to the individual's language competence but the system in which they trained or practised.

Given the challenges of demonstrating an ability to communicate effectively in spoken English in a particular clinical setting from written evidence at point of registration, the RCN reinforces the importance of employers providing robust induction and continuing to assess an individual's competence and communication skills for a specific role (which may require command of another language eg Welsh and/or good understanding of colloquial English).

We are pleased to note that the NMC will be communicating with employers about their responsibilities but would suggest this needs to be done on a regular basis.

The NMC may also wish to consider the implications of the Welsh Language Act 1993 and the Welsh Language Measure 2011 both of which grant official status to the Welsh language and that it may not be treated less favourably than the English language. We would suggest approaching the Welsh Language Commissioner for further guidance.

Please see consultation document - section 1: providing evidence of language competence at initial registration for EEA trained nurses and midwives (points 23 to 30).

2. To what extent do you agree or disagree that the way in which we will request evidence (to demonstrate English language competence) is fair and appropriate?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

I don't know

Please explain your answer:

The RCN acknowledges that under EU rules the NMC cannot apply mandatory language controls at the point of recognition of qualification and therefore supports the pragmatic approach of introducing a two stage process, whilst giving applicants the option of providing evidence of language ability at the point of recognition.

However, the RCN does have some concerns about likely timescales for this new process which are missing from the flow chart on page 8 of the consultation document. The implications for applicants of submitting evidence at different stages of the process need to be clearly explained in the guidance.

Given the dramatic rise in registration applications from EEA educated nurses has the NMC undertaken any assessment of the impact of these changes on length of registration process? There are clearly potential knock on effects in relation to the nursing labour market in the UK.

EEA trained nurses and midwives

Please see consultation document - section 1: providing evidence of language competence at initial registration for EEA trained nurses and midwives (points 31 to 33).

3. To what extent do you agree or disagree that we should seek assurance of language competence through a compensation measure before EEA nurses and midwives have access to patients and service users?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

I don't know

Please explain your answer:

The RCN agrees that evidence of language competence should be required before an applicant undertakes compensation measures. This would address both patient safety risks and financial costs of undertaking assessments without the requisite language

skills, since communication is fundamental to nursing practice.

Readmission to the register

Please see consultation document - section 2: readmission to the register (points 34 to 39).

4. To what extent do you agree or disagree with our approach concerning English language competence in relation to the readmission of a nurse or midwife to the register?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- I don't know

Please explain your answer:

It is unclear whether the NMC is proposing that these requirements would apply both to readmission of nurses and midwives who do need to undertake a return to practice programme and those who do not? It is also unclear how these changes fit with the revalidation process or with annual renewal arrangements. This needs to be clearly outlined by the NMC.

For those nurses and midwives needing to undertake a return to practice programme to be readmitted to the register, the RTP programme should identify any communication issues which could hinder practice.

However, for those applying for re-admission who are not required to undertake the RTP programme, the RCN would support the criteria outlined in point 38 of the consultation, since this includes demonstrating recent practice in the UK.

In relation to 38.4 and "concerns" raised previously about language ability of registrant. We would expect this to apply where the NMC has investigated concerns previously rather than anecdotal and unsubstantiated comments and it will be important for the NMC to clarify this.

5. Do you think that there are any other evidence sources that we should consider?

Yes

No

Please explain your answer:

There is evidence that some English development support programmes can help nurses to develop "cognitive academic language competency" ie English to an advanced and technical level that also appreciates cultural context to deliver culturally competent care and communicate with colleagues, families, patients*. In future these programmes could also be considered as evidence of language proficiency. They also reinforce the role of the education sector and of employers in contributing to a nurse or midwife's ability to communicate effectively in English.

* Crawford T, Candlin S, (2013) A literature review of the language needs of nursing students who have English as a second/other language and the effectiveness of English language support programmes, Nurse Education in Practice 13 (2013), pp 181-185

Fitness to practise

Please see consultation document - section 3: introducing a new ground of impairment for fitness to practise cases (points 40 to 45).

6. To what extent do you agree or disagree that in cases where the Registrar directs a nurse or midwife to undergo a language assessment we should use the same test (IELTS) as required for initial registration?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

I don't know

Please explain your answer:

The RCN has already highlighted its concerns about this new ground for impairment for fitness to practise cases in the previous consultation undertaken by the Department of Health in December 2014 relating to language controls, including what evidence would be used for such complaints where there has been no "deficient performance in practice".*

We continue to be concerned by the proposals in Annex 2 to this current consultation “Proposed changes to education, registration and registration appeals rules and our fitness to practise rules” which raise significant equality issues. Other grounds of impairment dealt with by the FtP rules - health and competency grounds – place the burden of proof with the NMC as the initiator of any proceedings to prove impairment. The NMC also facilitates the investigative process in these cases (eg organising a medical examination).

In relation to language concerns the rule changes proposed imply that the onus would be on the individual registrant to organise and fund an IELTS test as evidence to counter any claim made about them, rather than the NMC, effectively reversing the burden of proof. The registrant may be unable to afford the test, or may not be able to organise it within the time frame that the registrar may set. This is patently unfair.

If the NMC has the responsibility for investigating a registrant’s language competency, then they will be incentivised to thoroughly investigate whether or not there is an issue that justifies the inconvenience and cost of arranging a test before taking that step.

The RCN is also seeking assurances that if the registrar did decide to investigate claims made against a nurse about their language competency, their investigations would include seeking information from their employer on measures and support they have provided, given our prior comments about effective induction.

In relation to the specific question on type of test to be used, the RCN does agree that, where a test is deemed necessary after further investigation this should most sensibly be the IELTS to ensure consistency.

*http://www.rcn.org.uk/support/consultations/responses/language_controls_for_nurses,_midwives,_dentists,_dental_care_professionals,_pharmacists_and_pharmacy_technicians

Please see consultation document - section 3: introducing a new ground of impairment for fitness to practise cases (points 46 to 47).

7. To what extent do you agree or disagree that the result stated in the signed IELTS certificate or other document would provide conclusive proof of the result achieved by the nurse or midwife?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree

Strongly disagree

I don't know

Please explain your answer:

The RCN would expect that any IELTS tests (as with non-EEA nurses and midwives) would need to be undertaken in recognised test centres in the UK or overseas, as directed and funded by the NMC in fitness to practise cases.

We are therefore unclear why this question is being asked or whether there are concerns about fraud or validity of test results?

General

Please see consultation document - all sections (points 1 to 59).

8. Do you think that there are any groups who may be unfairly impacted by the changes that we outline in this document?

Yes

No

Please provide more information:

The NMC needs to clearly outline the impact of the changes in this consultation on non-EEA educated nurses and midwives who undertook the IELTS on initial registration with the NMC as they will be impacted by the new rules for re-admission to the register and fitness to practice. Since IELTS is being used as the ultimate evidence test the NMC can require, it needs to be clear how previous test results do or do not apply.

As far as possible, the RCN would want to see consistency of approach for registrants regardless of country of education/origin.

9. Please use the box below if you have any additional comments about the language competence of registered nurses and midwives, that have not been addressed in this consultation.

In Summary:

The RCN agrees with the overall approach of a two-stage process to registration, in order to allow evidence to be gathered on English language competency. However, the consultation does not give timelines for registration or readmission processes and the

RCN would want to see these outlined given the rise in EEA applications over the last few years to fill pressing nursing shortages in the UK, as there could also be wider nursing labour market implications.

Given that there are limitations to any recognised language test or written evidence in relation to a nurse's ability to deliver appropriate care to a range of patients in a UK health setting it is important that employers continue to invest in effective induction and support for both EEA and non-EEA educated nurses and midwives. Any investigations into allegations of lack of language competence against a current registrant also need to consider the role of the employer.

In relation to fitness to practice, the RCN is very concerned about the proposed shift in burden of proof for complaints against a registrant in relation to language competency which could have serious equality implications.

10. Are you currently registered with the NMC?

- Yes – please go to question 11
- No – please go directly to question 12
- I don't know – please go directly to question 12

11. Which of the following describes your registration with the NMC? (select all that apply)

- Nursing
- Midwifery
- SCPHN
- I don't know

Organisation Questions:

**12. Which of the following best describes the type of organisation you are responding on behalf of?
(Please tick only one box)**

- Government or public body
- Regulator
- Professional organisation or trade union
- NHS employer of nurses or midwives
- Independent sector employer of, or agency for, nurses and midwives
- Education provider
- Consumer or patient organisation
- Other - please specify:

13. Please give the name of your organisation

Royal College of Nursing

contact: Susan Williams, Senior International Adviser, Policy and International

14. Would you be happy for your comments to be attributed to your organisation?

- Yes
- No – please keep my responses anonymous

15. Please state where your organisation mainly operates:

- UK-wide
- England
- Northern Ireland
- Scotland
- Wales
- Other – please specify:
- I don't know

General Questions:

16. How did you find out about this consultation?

- NMC website
- Email or e-newsletter from the NMC
- Email or e-newsletter from another organisation
- University
- Friend/colleague
- NMC event
- My organisation
- Other
- I don't know

This completes the questions.

To submit your completed form, please email it to: consultations@nmc-uk.org

Once the consultation exercise closes on the 21st August 2015 (at 12pm), we will analyse all received responses to build the evidence base from which to confirm or amend our current proposals accordingly.

The NMC would like to thank you for your valuable time in offering your views on this important consultation exercise.