

Royal College of Nursing response to the Department of Health and Social Care's consultation on 'Changes to the General Dental Council and the Nursing and Midwifery Council's International Registration Legislation'

With a membership of close to 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 elected representatives and Government bodies across the UK, other national and European political institutions, trade unions, professional bodies and voluntary organisations.

The RCN has answered the questions in this consultation that related to the RCN's remit, expertise to nursing professionals and the Nursing and Midwifery Council (NMC). As such, answers are not provided on areas that relate to dental professionals and the General Dental Council.

- 1. Do you agree or disagree with the department's aim of ensuring that the GDC and NMC have flexibility to amend their processes for assessing international applications, to support the development of processes which are proportionate and streamlined, while protecting public safety?**
 - 1.1. The RCN supports the regulation of nursing professionals being a function that is independent from government. While regulators should be accountable to both the public and the individuals they regulate, the RCN supports the general aim of providing regulators with the flexibility and autonomy required to protect public safety, without interference from UK Government.
 - 1.2. However, in giving any regulator increased powers, the RCN would expect there to be an obligation for regulators to work with and engage with stakeholders, such as trade unions and professional bodies. The RCN expects this engagement to be a mandated condition from the Department of Health & Social Care (DHSC) in correlation to any increased flexibility that may be provided.
 - 1.3. Regulator independence should also not hinder any nursing regulator from partnering with other stakeholders in the delivery of their core functions. Proportionate regulation that fully protects the public must not exist in a silo and legislation should support flexible collaboration.
 - 1.4. The RCN is seeking a delegated relationship with the NMC, so that the RCN can determine UK applicable standards for nursing education and practice including those for advanced level practice. Delegating functions of this nature could support the NMC's aims to streamline their own processes where needed.
- 2. Do you agree or disagree with amending the Nursing and Midwifery Order to encompass a range of international registration routes, such as quality assurance of international qualifications, to be used in addition to the NMC's test of competence?**

- 2.1. The RCN has significant concerns with the proposed international registration routes in this consultation. In particular, the RCN is concerned that the principles of regulator autonomy that have been clarified in the progression of the Professional Qualifications Act, are being undermined to allow governments to include international recognition of qualifications agreements within future trade deals. The RCN is also concerned with the approval of qualifications from outside the UK without requiring the NMC's Test of Competence (ToC). These concerns are set out in further detail below.

Qualification Comparability

- 2.2. The RCN and many other stakeholders have been explicit in dialogue throughout the progression of the Professional Qualifications Bill through to its passage into Act on 28 April 2022, that regulators should not be bound by UK Government to recognise overseas qualifications or experience as part of any international agreement; especially if they are not party to that agreement or able to contribute to it. Regulation being independent from government means that the decision on an individual's fitness to practise should rest solely with the regulator. The RCN is clear that political interference in matters like this could potentially pose serious preventable risks to patient safety. The RCN is also concerned by the prolonged underinvestment in the recruitment, development and retention of the domestic nursing workforce, which has led to a disproportionate over-reliance on international recruitment. The RCN is concerned that this reliance may impact how ethically employers – and Governments – recruit nurses from overseas. It is imperative that the recruitment of international healthcare workers is mutually beneficial to both sending and receiving countries, and workers themselves are properly informed and supported throughout the process.
- 2.3. As a result of stakeholder concerns, the Department for Business, Energy and Industrial Strategy (BEIS) made a series of changes to the Professional Qualifications Bill at committee stage, setting out additional guaranteesⁱ stating that the decision to enter into a regulator recognition agreement (RRA) are for the regulators and professional bodies to decide. This published content goes on to state that the Bill enshrines the autonomy of regulators as the only body able to determine whether individuals are fit to practise. The published content also clarifies that any RRAs which are annexed to government-to-government agreements (as set out under clause 3 of the Bill) will be concluded by regulators under a mutual recognition agreement framework. The NMC and other health and care regulators welcomed these changes. Now that the Professional Qualification Bill has become an Act, the RCN would expect any actions from the Department of Health and Social Care to comply with its principles in full.
- 2.4. Furthermore, in a letter dated 6 August 2021ⁱⁱ, the Deputy Director for Trade and Investment Negotiations in BEIS communicated to the RCN "...that in all trade negotiations, a key priority for the government is ensuring that regulator autonomy over UK standards, and to determine who can practise a regulated profession, will be maintained."

- 2.5. The RCN is supportive of proposals for regulator-to-regulator agreements, based on the position that regulators are best placed to make such arrangements, with relevant stakeholders, including national nursing associations, to be consulted in the processⁱⁱⁱ. The RCN is therefore very concerned with any proposal that could undermine this, or which could result in the NMC being unable to independently assess any overseas applicant. Therefore, the RCN suggests that the wording as proposed in this consultation's draft Order mirror the language as written in the Professional Qualifications Act.
- 2.6. Nurses should not be singled out from other regulated professions and used in Government trade deals. Primary legislation that has undergone full parliamentary scrutiny, and passed into law, must take authority over any provision being discussed in this consultation.

Qualifications from the existing programme approval powers

- 2.7. While the RCN recognises that the NMC already has the power to approve non-UK education and training courses under article 15(7) of the 2001 Order, in response to a query from the RCN, the NMC advised that this is not a power that they currently use. The RCN is concerned that any measure removing the requirement of candidates from article 15(7) courses to take the ToC, could result in safeguards and protections not being adequately met.
- 2.8. Currently, any UK based approved education institute is required to provide evidence to the NMC on the quality of the education courses they provide. While the NMC does not regulate nursing students, there are still broader safeguarding measures in place from institutions in the UK, such as the Care Quality Commission and the Office for Students in England which protect aspects of the programme such as the quality of practice hours. The NMC's regulatory remit does not extend beyond nurses, midwives and nursing associates (in England). However, there are established processes and feedback loops from other system regulators for identifying universities and course providers that are failing to provide an adequate standard of education. The NMC is reliant on this broader network of regulators and quality assurance, as well as those broader feedback loops, in order to guarantee that those who have qualified in the UK are fit to practise.
- 2.9. Should the NMC start approving the courses and qualifications of non-UK institutions, there will be wider aspects of education safeguarding that the NMC will be unable to assure the quality of themselves (as that would be beyond their regulatory remit) and will not be able to rely on the same regulatory feedback loops they have in the UK. The NMC would not be able to review the institutions providing practice hours nor would they be able to vet the broader university policies around matters like equality, diversity and inclusion.
- 2.10. Additionally, as the NMC does not currently approve non-UK courses, it is unlikely to have the infrastructure and processes in place already to start approvals of both qualifications and programmes. The RCN is concerned that the NMC addressing these matters could result in upheaval to existing registrants

as well as an additional significant cost which could be passed on to the nursing workforce. For example, the current Mott Macdonald system^{iv} (which is used by the NMC to deliver the quality assurance of nursing education) operates in the UK according to UK legislation on quality assurance, data and public protection. Should the NMC choose to approve programmes overseas, this IT system may need to be reviewed for fitness for purpose and expanded with additional financial cost as well as alterations to ways of working.

- 3. Do you agree or disagree with removing the duty on the NMC to determine procedures to assess whether a qualification is of a comparable standard and publish a list of such qualifications from the Nursing and Midwifery Order?**
 - 3.1. The NMC should operate under general principles of transparency and accountability. As an organisation subject to the Freedom of Information Act (FOIA) 2000, it should seek to publish and be seen to be transparent in all its key processes and decisions.
 - 3.2. The RCN is not satisfied with the claim set out in the consultation that removing a duty to publish a list of qualifications the NMC have deemed to be of a comparable standard to those from a UK approved institution is necessary to increase flexibility for the NMC. It is the RCN's view that there is insufficient argument or evidence set out in support of this proposal to warrant the change being asked for. Furthermore, it is the RCN's view that publishing the outcomes of decisions once they have been made is key to ensuring transparency and does not hinder or obstruct the NMC's decision making powers. Instead, removing this obligation increases risk and would enable the NMC the ability to make decisions without ongoing scrutiny by the public, by registrants, or by stakeholders. If the primary purpose of regulation is to protect the public and ensure public safety, this must be coupled with a general principle of encouraging transparency in all key decision making. The RCN strongly opposes the removal of any requirement on the NMC for publication of the list of qualifications deemed by the NMC to be of comparable standard to those from a UK approved institution.
- 4. Do you agree or disagree with amending rule 6 of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 to change the NMC's requirements in relation to third party declarations in support of good health and good character?**
 - 4.1. The RCN is supportive of measures that clarify existing processes making it easier for nursing applicants to the NMC register to understand what is expected of them from the outset and throughout, including the outcomes of any process. The RCN supports actions from UK Government and the NMC which ensure that the process for international applicants is as clear as possible.
 - 4.2. The RCN would expect any changes or clarifications of this nature to be appropriately communicated by the NMC in their printed and digital resources.
- 5. Do you agree or disagree with the potential costs and benefits of these proposals detailed in the 'Costs and benefits' section?**

- 5.1. In full recognition of the UK Government's priority to ensure that recruitment of internationally educated registered nurses is supported across the UK, the focus of this consultation's documentation has been about the processes for nurses who have qualified overseas to come to the UK. However, the UK Government needs to consider that any qualification comparability assessment is likely to be mutual and could therefore enable UK registered nurses to take employment overseas more easily. The UK Government does not appear to have considered the possibility that provisions which might make it more desirable for the NMC to approve non-UK education courses could also therefore incentivise UK students to study, and work, elsewhere.
- 5.2. The UK nursing education model requires students to choose one of four routes, and then register in one of those four specialisms: adult, children, mental health and learning disability nursing. This is distinct from many other countries outside of the UK that instead offer a generic pre-registration nursing course. Should the NMC recognise programmes of education delivered outside the UK that are generic in nature, and then also not require the ToC to register, there may be an appetite for UK students to opt to study outside of the UK, which could increase the risk of not returning to the UK workforce.
- 5.3. For example, with students in England paying £9,250 per year for a nursing degree, tuition fees are likely to be lower in other countries. Additionally, while maintenance loans vary depending on a student's financial situation, the cost-of-living expenses in other countries, including many in Europe^v, may also be lower than the UK making it a more affordable location to study. Students who might have otherwise studied in England could study for less than £100 a semester in Norway^{vi}, less than £300 a semester in Germany^{vii} or £2,500 a year in France^{viii}. Additionally, should a UK student study abroad, they are likely to be able to study a generic nursing degree before choosing one of the four UK required specialisms.
- 5.4. Additionally, should a government-to-government trade deal include the recognition of qualifications, this is likely to be reciprocal meaning that UK qualifications would be recognised similarly within the country we are trading with. This increases the flexibility for current registered nurses to leave the UK and take employment in another country. The RCN is clear that any aspects of standards or qualifications for the nursing profession must not be part of any government-to-government deal.
- 5.5. The RCN would recommend the government fully considers and reviews the potential risks of nurses or students leaving the UK as an unintended result of these changes to the NMC's international registration processes. NHS data suggests that the current vacancy rate for nurses in the NHS is 47,575 across the UK^{ix}. It is important that the UK Government does all it can to minimise the likelihood of this vacancy rate increasing.
- 5.6. Due to its independence, the NMC is not funded by Government and is instead funded by the nurses, midwives and nursing associates that they regulate. As such, should these proposals result in any additional financial expenditure for

the NMC, there is a risk that this cost is passed on either to international nurses as part of their application fee or to registered nurses as part of their annual registration fee. The RCN is clear that any additional costs such as new administrative or technological expenses should not result in increased fees to the nursing profession.

6. Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the public sector equality duty that is set out in the Equality Act 2010 or by Section 75 of the Northern Ireland Act 1998 or on family formation, family life and relationships?

6.1. It is the position of the RCN that any positive improvements to the NMC's international registration legislation run the risk of being offset or diminished by broader issues within the UK immigration system. Urgent reforms are needed to UK immigration policy in order to make the UK an attractive destination for international nurses. The RCN has several concerns with the UK immigration system and believes that there are elements which create unnecessarily challenges for nurses applying to register and work in the UK. In particular, RCN members often report difficulties in bringing family members to the UK through the Sole Responsibility and Adult Dependent Relative routes, because of the high burden of evidence that is required by the Home Office. This can potentially leave nurses separated from their children and adult dependents, who may require their ongoing care.

6.2. Ultimately, these kind of barriers in the immigration system can make the UK appear an unattractive place to work, present significant personal challenges to individuals who have sought to join the UK labour market in good faith and can also lead to retention challenges in the workforce.

7. Do you agree or disagree that the legislative amendments set out in the draft Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2022 support streamlined and proportionate international registration processes for the GDC and the NMC?

7.1. For the NMC to have a streamlined and proportionate international registration process, the NMC must be included in all agreements and memorandums of understanding between the UK and any other country on this topic. It is only by having the regulator present for the formation of any international agreement that the contents of that agreement can be fully realised, mutually beneficial and accurately protect the public.

7.2. The RCN has specific concerns around the levels of information that are being made available to internationally educated nurses as part of the recruitment process when considering coming to the UK. The RCN is calling for there to be a standardised approach for all recruitment agencies regarding how they provide information to potential recruits; this should include signposting to guidance on NMC registration, guidance on visas (including family visas), and highlighting relevant diaspora groups, professional bodies and trade unions. We would expect the NMC to recognise its central role in the recruitment of overseas

nurses by supporting this standardised and streamlined approach to communication and support.

8. Do you have any further comments on the draft Order itself?

- 8.1. The RCN is concerned about the timing of this consultation. The Department has not made clear in the consultation documentation the reasons why these changes to the NMC's legislation are being made now, independently, from the much broader piece of work being conducted by the DHSC on reforming all nine UK healthcare regulators.
- 8.2. The reforms recommended by the Law Commissions of England and Wales, Scotland and Northern Ireland in 2014^x made clear that the legal framework underpinning regulation should be consolidated and simplified so there can be greater consistency across the regulatory bodies. In 2019, the UK Government's response to the consultation 'Promoting professionalism; reforming regulation'^{xi} confirmed the need for any reform to "simplify, streamline and modernise the legislative framework". This was followed up in spring 2021 in the 'Regulating healthcare professionals, protecting the public'^{xii} consultation where it was stated that the Government's approach to reform would include consistency amongst regulators and the removal of overly detailed legislation. It is therefore incongruent for the UK Government to now bring forward an addition piece of secondary legislation that creates further complexity by competing with the principles of a current Act (i.e., the Professional Qualifications Act).
- 8.3. The RCN is therefore of the opinion that all reasons given for the urgent requirement of this Order are superfluous to the much broader and overarching objectives of simplifying the existing legislation and ensuring consistency amongst the nine healthcare regulators.
- 8.4. The RCN is not satisfied that the changes being proposed here benefit from being looked at in isolation. Instead, the RCN thinks they should have been considered holistically with the many other changes being proposed to the future of nursing regulation seeing as the numerous reforms are likely to impact each other. It is understood that any current deadlines as a result of the UK leaving the European Union could be extended and as such this should not be a barrier to having international recruitment pathways being considered as part of the broader regulatory reform proposals.

ⁱ <https://www.gov.uk/government/publications/professional-qualifications-bill-2021-factsheets>

ⁱⁱ Letter from Nick French (Deputy Director of Trade and Investment Negotiations at Department for Business, Energy & Industrial Strategy) to the RCN dated 6 August 2021 (unpublished)

ⁱⁱⁱ [Parliamentary Briefing for Professional Qualifications Bill: Lords Report Stage | Royal Collège of Nursing | Royal College of Nursing \(rcn.org.uk\)](#)

^{iv} <https://nmc.mottmac.com/>

^v https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Comparative_price_levels_of_consumer_goods_and_services

^{vi} [How to Study Nursing in Norway for International Students - Study Abroad Aide](#)

- vii <https://www.haw-hamburg.de/en/study/degree-courses-a-z/study-courses-in-detail/course/courses/show/nursing-cooperative-degree-programme/Studieninteressierte/>
- viii [How to Study Nursing in France for International Students - Study Abroad Aide](#)
- ix <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-vacancies-survey>
<https://www.rcn.org.uk/news-and-events/news/w-rcn-wales-publishes-nursing-in-numbers-2021-report-revealing-current-workforce-statistics-231121>
<https://turasdata.nes.nhs.scot/data-and-reports/official-workforce-statistics/all-official-statistics-publications/01-march-2022-workforce/dashboards/nhsscotland-workforce/?pageid=6429>
<https://www.health-ni.gov.uk/articles/staff-vacancies>
- x [Cm 8839 Regulation of Health Care Professionals / Regulation of Social Care Professionals in England \(lawcom.gov.uk\)](#)
- xi https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/820566/Promoting_professionalism_reforming_regulation_consultation_reponse.pdf
- xii [Regulating healthcare professionals, protecting the public \(publishing.service.gov.uk\)](#)