

Independent Chief Inspector for Borders and Immigration (ICIBI): An inspection of the immigration system as it relates to the social care sector

Royal College of Nursing evidence submission

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, student, and nursing support workers across the United Kingdom and beyond.

1. The effectiveness and efficiency of the health and care worker visa route

- 1.1. **Scale of international recruitment to health and social care:** Internationally educated nursing staff have always played an important role in improving the health and wellbeing of the UK population. Nursing is a global profession which is strengthened by shared learning and experience. Nursing & Midwifery Council (NMC) 2023 register data shows that one in five (20.8%) of the 788,638 total UK nursing workforce were trained internationally (or country of registration unknown).¹ This figure has been steadily increasing since March 2018 where 15.0% of the workforce were trained internationally. International recruitment to social care has risen significantly in the past three years.² The most recent Home Office statistics show that 121,290 Health and Care visas have been granted in the 12 months ending June 2023, over two and half times the figure for the previous year (47,194).³

The Home Office does not provide disaggregated data showing the distribution of international staff across different professions and settings, so it is impossible to ascertain the extent of the care sector's reliance on international recruitment.

Data published by Skills for Care finds that the number of roles filled by international recruits within England alone has increased from 10,000 in year between March 2020/21, to 20,000 in the year 2021/22, to 70,000 in the year 2022/23.⁴ This rise can in part be attributed to the addition of care workers to the Shortage Occupation List (SOL) in February 2022. Data on the number of internationally educated professionals working in social care is unavailable for Wales, Scotland and Northern Ireland, and this means it is not possible to measure the scale of international recruitment in the care sector in these countries.

- 1.2. **'Red list' recruitment concerns:** The RCN is concerned by data from the NMC that indicates that new joiners to the UK nursing workforce includes recruits from countries on the 'red list'. 55 countries are identified by the WHO as facing universal health coverage related workforce shortages, and active recruitment from these countries is not permitted.⁵ The total number of new joiners to the NMC register from red list countries for the six months prior to March 2023 was 2,808. In the absence of transparent Home Office data that includes a breakdown of the country of origin, sectors and role of visa holders, it is not possible to assess the scale of

international recruitment from 'red list' countries into the care sector.

In 2023, Zimbabwe was added to the updated Health Workforce Support and Safeguards List. In the previous year, 7,875 Zimbabwean nationals came to work in the UK on the Health and Care visa route, but only 839 joined the NMC register.^{6,7} It is vital that all international recruitment is conducted ethically and in accordance with the WHO Global Code of Practice on the International Recruitment of Health Personnel.⁸ The Home Office should provide greater transparency to support the monitoring of compliance with global ethical standards for international recruitment.

- 1.3. **Visa fees & naturalisation fees:** In July 2023, Government announced an increase to visa fees. Application fees for Indefinite Leave to Remain (ILR) are set to increase by 20% on October 4th, 2023⁹. The cost to apply for settlement (ILR) will rise to £2,885 per person. This is in addition to the visa fees paid across a minimum of five years prior to qualifying.¹⁰ By comparison the latest visa and transparency fees data suggests that the estimated cost of an ILR application is just £646.¹¹ In the context of a decade of pay erosion,¹² ILR fees may simply be unaffordable for many health workers and act as a significant barrier to settlement.
- 1.4. **Family reunification, sole responsibility and adult dependency:** RCN members often report difficulties in bringing their family members to the UK due to the high burden of evidence that is required by the Home Office. Members often report difficulties in bringing their children to the UK particularly in cases where parents are separated with one parent outside of the UK with no plans to migrate. Legal custody arrangements, for example, are insufficient evidence to prove Sole Responsibility. Member cases also suggest that the Home Office makes false assumptions that children who are temporarily staying with extended family members can continue to do so, and these decisions leave staff separated from their children for extended periods.

RCN members also report challenges in bringing their adult dependents to the UK through the Adult Dependent Relative (ADR) route. Nurses and other healthcare workers can provide expert levels of care to their loved ones, and as such will often be the most suitable member of the family to look after an adult dependent relative in need of care. The RCN is aware of at least one case where a registered nurse was initially refused a visa through ADR on the basis that they could leave the UK to care for their parent in-country.

- 1.5. **No recourse to public funds:** The policy of no recourse to public funds (NRPF) condition being applied to migrant workers and those without indefinite leave to remain, is a key risk to internationally educated nurses' financial stability and should be ended. RCN members consistently report the negative impact that no recourse to public funds has on their lives and the lives of their families¹³. Those with an NRPF condition attached to their visas are unable to access necessary social security

benefits that assist with the additional costs of raising children, indeed the Work and Pensions Committee identifies families with NRPF as at high risk of living in insecure and crowded housing.¹⁴

This policy has a disproportionate impact on women, as 1 in 3 women with a 'no recourse to public funds' condition on their visa have children living with them, compared to 1 in 5 men.¹⁵ Furthermore, whilst the Home Office provides a Destitution Domestic Violence Concession to support migrants on a partner visa where their relationship has broken down because of domestic violence, this concession does not apply to those in the UK under worker visas including the Health and Care visa.¹⁶ Internationally educated staff make an invaluable contribution to patient care as well as a significant financial contribution towards our public services through taxation and national insurance contributions, yet they continue to be denied access to vital social safety nets such as universal credit and employment and support allowance.

2. The current suitability of the Home Office's licencing system for health and care worker visa sponsorship

- 2.1. **Certificates of Sponsorship:** Current visa rules require applicants to the skilled worker visa to be assigned a certificate of sponsorship by their employer¹⁷. This policy in effect, ties a migrant's right to work and residency in the UK to their employment at a specific employer. The RCN considers that this practice risks creating an unequal power dynamic between staff and sponsoring employers, in turn increasing the risk of exploitation. 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.¹⁸

The UK Government should undertake a review into the system of certificates of sponsorship, and evaluate the benefits of alternative systems such as a general Health and Care work permit, which for example could reduce migrant workers dependence on a particular employer, and allow for greater mobility across employers and the sector.

- 2.2. **Immigration Skills Charge:** Currently, health and care employers are required to pay the Immigration Skills Charge when hiring an internationally educated individual. Medium or large sponsors are required to pay a fee of £1,000 for hiring an international health care worker for the first 12 months of their visa. This fee reduces to £500 every six months after that for the duration of their visa.

It is the RCN's view that these high fees are untenable for a system already facing significant financial pressure. Furthermore, this charge was originally introduced to encourage employers to invest in the upskilling of the resident workforce in

combination with the requirement to undertake a Resident Labour Market Test. It is unclear why the charge is still necessary when completion of a Resident Labour market test is no longer a mandatory requirement for the sponsorship of any Skilled Worker visa.^{19,20}

3. The effectiveness of the Home Office's compliance requirements on sponsors, including how these safeguard employees from exploitation

3.1. Repayment clauses: Low levels of pay, job satisfaction, and poor working conditions all contribute to a high labour turnover rate for the adult care sector. In England, the sectoral turnover rate was 29% in 2022, but this figure rises to 44% for registered nurses.²¹ In this context, the RCN is concerned by the growing number of reports of internationally educated members that their contracts contain excessive repayment clauses, which in effect pressure staff to remain in employment situations that they may otherwise prefer to leave. Such clauses stipulate that a worker must pay an often undefined fee if they leave their contract before an agreed period. Since January 2023, the RCN has received over 100 member enquiries looking for support on this issue.²²

An analysis of RCN member cases shows the breadth of variation in the fees that employers make attempts to recoup. Several RCN members have made reports of fees in excess of £10,000 including a claim of £16,000, similarly the required duration of work varies, but has been reported to be as high as five years of employment.²³ Through member reports the RCN is aware of instances where passports have been withheld by employers and threats of deportation have been made to enforce collection of penalty fees.²⁴

Guidance on the use of repayment clauses published by NHS Employers has sought to standardise repayment terms across the NHS in England.²⁵ The guidance includes a limit of £3,000 for costs that can be recouped by employers when an employee leaves within the first 12 months. This limit is further tapered by years of service, with a maximum claim of £1,500 after one year of employment, and reduces to £750 after two years of employment, with no funds being repayable after three years of employment.

The UK codes of practice which apply across both the health and care sector address the use of repayment clauses but do provide a maximum sum that can be reclaimed by employers. Guidance on the use of repayment clauses in each country should be updated to include a maximum repayment fee. This will ensure equity of terms for workers across the UK and for those employed outside of the NHS.

3.2. Guidance on international recruitment: The UK codes of practice for the international recruitment of health and social care personnel set out guidance for ethical international recruitment,^{26,27} and are closely aligned with the guidance contained in the WHO Global Code of Practice on the International Recruitment of

²³ Health and Social Care Committee (2022) *Workforce: recruitment, training and retention in health and social care*: [Workforce: recruitment, training and retention in health and social care -Health and Social Care Committee \(parliament.uk\)](#)

²⁴ Royal College of Nursing (Unpublished) Findings of RCN member research project using survey data and interviews

²⁵ NHS Employers (2023) *Repayment Clauses Guidance*: [Repayment Clauses Guidance | NHS Employers](#)

²⁶ Department of Health and Social Care (2023) *Code of practice for the international recruitment of health and social care personnel in England*: [Code of practice for the international recruitment of health and social care personnel in England -GOV.UK \(www.gov.uk\)](#)

²⁷ Scottish Government (2023) *Revised Scottish Code of practice for the international recruitment of health and social care personnel*: [Revised Scottish code of practice for the international recruitment of health and social care personnel](#)

²⁸ World Health Organisation (2010) *Global Code of Practice on the International Recruitment of Health Personnel*: [WHO Global Code of Practice on the International Recruitment of Health Personnel](#)

²⁹ World Health Organisation (2023) *Health Workforce Support and Safeguards List*: [WHO health workforce support and safeguards list 2023](#)