

Royal College of Nursing response to the Migration Advisory Committee's Call for Evidence on Minimum Salary Thresholds for Tier 2 Visas

Introduction

With a membership of around 420,000 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.

Background to Migration Advisory Committee Tier 2 Reviews

Tier 2 of the Points Based System is the primary route for economic migration to the UK. Broadly, the route is for skilled workers from outside the European Economic Area (EEA) who have an offer of skilled employment in the UK.

There are four routes within Tier 2: Tier 2 (General), intra-company transfers, Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). The Government has commissioned the Migration Advisory Committee (MAC) to review Tier 2 with a view to making recommendations about reducing migration to the UK. This commission is split into two parts:

- I) Early advice on Tier 2 salary thresholds by 21 July 2015 (submissions to the MAC by 3 July);
- II) A wider review of Tier 2 by mid-December 2015.

The Wider Context

The RCN acknowledges that this call for evidence to provide early advice relates specifically to salary thresholds for those non EEA nationals applying for a UK Tier 2 visas to work in the UK, and the economic rationale for setting new higher minimum thresholds as well as the impact this would have on net migration.

However, in order to ensure that UK health services can function safely and effectively the issue of minimum salary thresholds for skilled workers to be recruited into the UK needs to be seen in the wider context of national workforce policies and the impact of other aspects of the Government's immigration rules on international recruitment and retention in the NHS, independent and social care sector.

The RCN submission to the MAC's call for evidence relating to the shortage occupation list¹(SOL) in December 2014 identified a shortage of nurses, with healthcare providers struggling to recruit nurses from the UK and the European Economic Area (EEA). We gave evidence that there is "*not only a current shortage of available nurses to employers, but it is likely to get worse in the next few years*". So we were extremely concerned that the MAC did not recommend that general (adult) nursing be added to the shortage occupation list to make recruitment from outside the EEA easier for the short term.

We also outlined the impact of other aspects of the immigration rules adopted in 2012 in our submission, which at a time of shortage, make it difficult to retain experienced internationally recruited nurses, because of the £35,000 income threshold to remain in the UK. The majority of nurses are recruited into Band 5 of the Agenda for Change pay rate (starting salary for 2015 £21,692) and most would not reach a salary of £35,000 within five years, when they would need to apply for indefinite leave to remain. The squeeze on public sector pay in the UK, particularly in England, and lack of career progression make this even more likely. Placing nursing on the SOL would have exempted them from this threshold.

In our International Recruitment report², issued in June of this year, we identified that 3,365 nurses currently working in the UK may have to leave from 2017 as a direct result of this income threshold. This not only denudes the NHS and independent sector of experienced nurses but it also makes no economic sense. It will have cost approximately £20,190,000 to recruit those 3,365 nurses.

These important considerations coupled with other trends that will impact on the supply and demand for nurses, outlined in our previous MAC submission and subsequent international recruitment report, mean that the RCN is calling on the MAC and Government to urgently:

- revisit the evidence available and the wider UK and global trends in relation to nursing shortages and place general (adult) nursing on the Shortage Occupation List.
- amend the immigration rules that prevent internationally recruited nurses from applying for indefinite leave to remain if they are not earning £35,000.

¹ RCN, 'Submission to MAC review of the Shortage Occupations List', available at: http://www.rcn.org.uk/support/consultations/responses/call_for_evidence_partial_review_of_the_shortage_occupation_lists_for_the_uk_and_for_scotland (2014)

² RCN, 'International Recruitment', available at: http://www.rcn.org.uk/_data/assets/pdf_file/0020/630353/RCN-International-Recruitment-2015.pdf (2015)

Summary of Key Points – the Initial Review

In relation to the salary thresholds for granting Tier 2 visas to skilled workers and the Home Office's desire to "*ensure that Tier 2 migrants are not undercutting the resident labour force*" the RCN is calling for:

- Up to date Agenda for Change pay scales to continue to be used as the minimum pay threshold for non-EEA nurses recruited into the UK health sector. This is a clear and transparent equitable pay system. The RCN believes they should be paid equitably with UK trained nurses when they initially enter the Nursing and Midwifery Council register, on Band 5, and that Agenda for Change (AfC) pay scales should apply for nursing staff employed in the NHS. As AfC pay scales are widely used as the basis for pay scales of independent sector providers, they should apply equally to nurses employed in the independent sector
- Given the need for non-EEA trained nurses to complete the Nursing and Midwifery Council's (NMC) registration processes the exception to the minimum pay threshold for these nurses should be retained so that they can enter the UK on lower Agenda for Change bands (3 and 4) whilst undertaking the assessments required for registration with the NMC.

Response to the Specific Questions in the Initial Review

1. How do the existing salary thresholds for Tier 2 compare to, and impact on, the overall wage distribution for each occupation?

Research undertaken by the RCN has found that the vast majority of international nurses (both EEA and non-EEA) being recruited by NHS providers, the independent sector and agencies are band 5 nurses, and these represent the backbone of the UK nursing workforce. According to a freedom of information request submitted by the RCN to the Health & Social Care Information Centre, band 5's made up 48 per cent of the FTE registered nursing, midwifery and health visiting workforce in September 2013.³

Band 5's in 2015/16 command a starting salary of £21,692, rising to a current maximum of £28,180. Band 5 is recognised as the predominant entry point for all nurses entering the NMC register. Currently all nurses, irrespective of nationality, are starting at the same level and are thereafter able to progress thereafter. This starting position is already very close to the current minimum salary threshold and so raising the minimum threshold beyond the entry salary for Band 5 would exacerbate staff shortages.

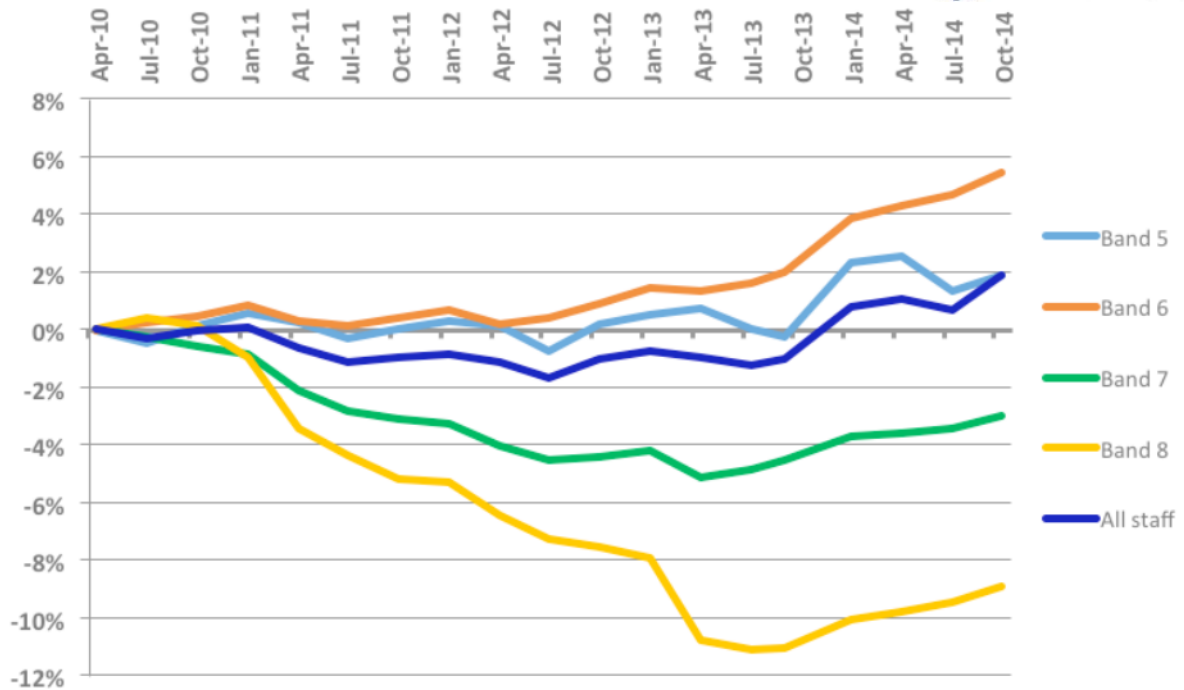
In addition to this, under current rules, non-EEA unregistered nurses are exempted from the minimum salary threshold and allowed to be paid a salary of at least £16,271 whilst completing the supervised practice, whilst awaiting registration with Nursing and Midwifery Council (NMC) registration (and still be sponsored as a nurse by the same sponsor after registration). The RCN believes that this exemption should be maintained given that non-EEA nurses going through the new registration processes will need to undertake at least one of their assessments in the UK (see question three for more detail).

Due to the decline of higher paid grades (bands 7 & 8) any rise in the minimum salary threshold will target band 5's and 6's especially hard which, between them, accounted for 79 per cent of the FTE registered nursing, midwifery and health visiting workforce in September 2013. The salary range between these two bands is £21,692 to £34,876.

From the data available regarding salary levels in relation to non-EEA nurses, of those who attained NMC registration between 2011 and 2015, 92 per cent were paid at Band 5. By way of comparison, 93 per cent of EEA nurses who attained registration in the same period were paid at Band 5, and 96 per cent of nurses in England were paid at band 5.⁴

³ RCN Frontline First, 'More than Just a Number', available at www.rcn.org.uk/_data/assets/pdf_file/0007/564739/004598.pdf (2014)

⁴ RCN, Data obtained from RCN member database (2015)



2. What types of jobs and occupations are done by highly-specialised and/or highly-skilled experts, and is pay a good proxy for this high level of specialisation or skill?

Nursing is a highly skilled profession and since 2013 has been an all degree profession across the UK for new entrants into the profession. The regulation requirements set by the NMC ensure the nursing profession is highly skilled.

Pay is therefore an important but not the only measure for determining a highly skilled expert. The RCN believes that professions answering to a code of conduct with the requirement that they maintain and improve their skills and knowledge through continuing professional development regulated through a formal revalidation process are also important indicators of expertise.

3. What would be the impact of increasing the thresholds to a level that better aligns with the salaries of highly-specialised and/or highly-skilled experts?

As already stated up to date Agenda for Change pay scales should continue to be used as the minimum pay threshold for non-EEA nurses recruited into the UK health sector. This is a clear and transparent equitable pay system. The RCN believes they should be paid equitably with UK trained nurses when they initially enter the Nursing and Midwifery Council register, on Band 5, and that Agenda for Change (AfC) pay scales should apply for nursing staff employed in the NHS. As AfC pay scales are widely used as the basis for pay scales of independent sector providers, they should apply equally to nurses employed in the independent sector.

The minimum threshold should therefore continue to be linked to Band 5 within AfC to ensure that employers are able to recruit nurses to address short term shortages and to avoid migrants “*undercutting the resident labour force*”.

Raising the general threshold would impact on Band 5 nurses from outside the EEA being able to support the UK nursing workforce which is already under significant pressure in terms of both numbers and skills-mix. The RCN’s Frontline First series of reports have documented and analysed these challenges in more detail. Among the most significant impacts would be:

- Exacerbating existing nursing shortages and unsafe staffing levels
- Increasing the risk of poor patient care outcomes⁵
- Higher rates of burn-out and early retirement from the profession by existing nurses
- Greater reliance on agency nursing staff
- Greater pressure on particularly vulnerable sectors (such as Care Homes)

4. What would be the impact of increasing the thresholds to a level that restricts the route to occupations which are experiencing skills shortages skilled to NQF level 6 or higher?

All UK trained registered nurses are educated to NQF level 6. The Nursing and Midwifery Council (NMC) has established a very rigorous registration process to ensure all non EEA nurses satisfy this level. As the NMC regulates the nursing profession there is no need to place restrictions on the basis of skill level.

The impact of increasing minimum entry pay thresholds above the AfC Band 5 starting salary have already been outlined in questions one and three.

5. What would be the impact of increasing the Tier 2 minimum thresholds from the 10th to the 25th percentile for each occupation for new entrant workers?

The percentiles described in the call for evidence do not currently apply to those workers who fall under Agenda for Change (AfC). As stated earlier given that AfC is a transparent national pay system the RCN would not be in favour of moving away from this approach.

6. What would be the impact of increasing the Tier 2 minimum thresholds from the 25th to the 50th or 75th percentiles for each occupation for experienced workers?

See response to question five

⁵ Lord Carter of Coles (2015) *Review of Operational Productivity in NHS Providers Interim Report 2015*
<https://www.gov.uk/government/publications/productivity-in-nhs-hospitals>

7. As an employer, what would be the impact of increasing the Tier 2 minimum thresholds on: a) hiring migrant workers from outside the EU; b) hiring migrant workers from within the EU; c) hiring natives.

The RCN has undertaken analysis of recruitment and retention practices and has considered how these will be affected by changes to immigration entry and right to remain requirements, highlighted in our response to MAC's recent call for evidence on the Shortage Occupations List (SOL)⁶ and its more recent International Recruitment 2015 report⁷. This evidence shows:

a) Impacts on hiring migrants from outside the EU

Changes to the minimum threshold salary thresholds will have the most profound impact on this professional group – making it much harder for UK employers to ethically recruit nurses from non-EEA countries (see question three).

b) Impacts on hiring migrants from outside the EU

This is vitally important because the international context in which the UK recruits overseas nurses has, and will continue to change, meaning that the UK must be mindful that its own recruitment and workforce issues are not unique and UK employers are not operating in a vacuum. Many countries are experiencing a nursing shortage and so nurses working in the UK will continue to be viewed as a potential labour source by other recruiting countries. More detail on this is contained in the RCN's recent report on international recruitment.

While raising the minimum salary threshold will not directly impact EU recruitment, the RCN believes that the Government's current focus on recruitment from the EU is not sustainable. This is because the retention of EEA nurses is challenging. Further the European Commission has predicted a shortage of over half a million nurses in the EU by 2020 and an ageing health workforce across the EU.⁸ Raising the minimum salary threshold for non-EEA nurses risks making the NHS and other health providers more dependent on the EU market which may become less dependable as a source of practitioners.

⁶ RCN, 'Submission to MAC review of the Shortage Occupations List', available at: http://www.rcn.org.uk/support/consultations/responses/call_for_evidence_partial_review_of_the_shortage_occupation_lists_for_the_uk_and_for_scotland (2014)

⁷ RCN, 'International Recruitment', available at: http://www.rcn.org.uk/_data/assets/pdf_file/0020/630353/RCN-International-Recruitment-2015.pdf (2015)

⁸ European Commission, 'Commission Staff Working Document on an Action Plan for the EU Health Workforce', available at: http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CC EQFjAA&url=http%3A%2F%2Fec.europa.eu%2Fhealth%2Fworkforce%2Fdocs%2Fstaff_working_doc_healthcare_workforce_en.pdf&ei=kLOSveidJ4SxsQH4jqvgAg&usq=AFQjCNEe1B3ttg2VnWPuCy_aMwPqHFFdrQ&sig2=34il71OEtFXqJcp-LHSCgg (2012)

c) Impacts on hiring natives

As with the above section 'Impacts on hiring migrant workers from within the EU', raising the minimum salary threshold will have indirect consequences on UK-specific recruitment which remains under significant pressure due to poorly planned funding decisions in training and retaining the UK nursing workforce.

One area where this is in evidence is the low number of new student commissions for nursing which is critical given the increasingly older profile of the profession. Research published by the RCN is Frontline First shows that the number of new commissions in 2014/15 was 19,206 compared to 22,815 in 2003/04.⁹

This failure to effectively plan and secure a long term workforce provision is further illustrated by the increased use of agencies as a solution to fill gaps in the nursing workforce.

If the opportunity and feasibility of recruiting internationally is reduced, employers will be forced to rely further on agency workers, which is unsustainable.

8. Are there additional national pay scales or sources of salary data that should be used to set the thresholds?

Agenda for Change should be used to set the thresholds for nurses, given it is a fair, transparent, equality proofed pay and grading system.

9. What other appropriate measures would you like to see for determining the minimum salary thresholds?

See above.

10. Should the minimum salary threshold take account of variations in regional pay? If so, how?

As outlined, in the NHS Agenda for Change (AfC) operates as a national pay structure (with geographical allowances to take into account differences in cost of living). This reflects the status of the NHS as a national organisation, with AfC facilitating employment mobility across different NHS trusts and boards. Similarly, most independent sector health and social care organisations use some form of cost of living premia in high cost of living areas. A threshold which took into account regional variations could lead to inequities whereby nursing staff are penalised for living in lower cost areas.

⁹ RCN, 'More than Just a Number', available at:
https://www.rcn.org.uk/_data/assets/pdf_file/0007/.../004598.pdf (2015)

The RCN believes that the existing salary thresholds are appropriate for non EEA nurses entering the UK as Tier 2 visa holders. Agenda for Change offers a clear and recognised framework for pay scales. The RCN strongly recommends that salary thresholds remain within this framework to ensure all nursing staff are paid equitably irrespective of origin. Further, the RCN has highlighted the importance of the lower salary threshold for nurses entering the UK prior to registration with the NMC and strongly recommends the retention of this rule.

Royal College of Nursing
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