Royal College of Nursing submission: Immigration and Social Security (EU Withdrawal) Bill, February 2019.

Following Royal College of Nursing (RCN) representation at oral evidence for the Public Bill Committee on 12th February, this briefing is a restatement of our emerging policy positions on the principles the proposed future immigration system, including the key evidence to support this.

Our health and care benefits hugely from the skills and expertise of nurses from across the globe, and their contribution, and importance to our workforce should be recognised within the immigration debate.

The Immigration and Social Security (EU Withdrawal) Bill

Whilst the Bill repeals freedom of movement and does not set out plans for future immigration legislation, the current proposals as set out in the Immigration White Paper, will have a huge impact on our ability to recruit overseas nurses.

We are concerned that Clause Four within the Bill will give Ministers so-called 'Henry VIII powers' to change primary legislation on immigration without sufficient scrutiny. Applying retrospective scrutiny via the made-affirmative procedure would be detrimental. Any future scrutiny of delegated legislation on immigration should be conducted via affirmative procedure.

1. **Freedom of movement**

There is a global nursing shortage and rising demand for health and care services. The UK's health and care sector needs to be able to attract nursing staff with the right skills to work and remain in the sector, particularly registered nurses. This includes making it easier for internationally recruited nurses who have worked in the UK for a specific period of time to be granted indefinite leave to remain.

The current domestic nursing workforce supply has not kept pace with rising patient need. EU and EEA nursing staff are helping to fill the persistent shortages in the UK workforce. In the NHS in England, there are approximately 41,000 nursing vacancies and in 2016, across the UK for the first time in a decade, more nurses left the profession than joined.[i][ii][iii] Yet, 86% of nurse leaders who responded to our survey told us that nurses recruited from the EU are essential for the proper functioning of health services, and a majority told us that they had recruited non-UK EU nationals in order to fill staffing gaps.[iv]

Since the referendum, we have argued for a differentiated approach to EU nationals coming to work in the UK given the past forty years of common legislation and approaches.
The EU sets the framework and recognises the qualifications of nurses trained across the member states – through the Mutual Recognition of Professional Qualifications (MRPQ) regulations. MRPQ has enabled the free movement of nurses and other health professionals by converging the standards of competency required to practice. The Directive also includes language checks on EU nurses and a duty on all EU member states to inform one another about suspended or banned professionals, both of which are important and positive developments for patient safety.[v] If MRPQ is retained, we believe having differentiated immigration arrangements for EU nurses to work in the UK would be beneficial. Freedom of movement has allowed MRPQ to work in practice.

The White Paper does raise the option for more streamlined arrangements for migrants from "low risk" countries but it is not clear what this means and whether this would include countries in the European Union, nor the impact for employers recruiting nurses internationally.

Governments across the UK must work together to ensure that the UK continues to be a world leader in innovation in healthcare by enabling health and care services to draw on knowledge, skills and expertise internationally after the UK withdraws from the EU. Nursing is a global profession, and the UK has benefited from freedom of movement across the EU.

2. Impact of having £30,000 as the minimum salary threshold for Tier 2 highly skilled migrants

The future immigration system must move away from using salary levels as the main indicator of skill. Nurses and nursing staff within social care are highly skilled professionals who happen to be low paid. Currently, nurses are exempt from the threshold in place because they are on Agenda for Change pay scales which are determined by the UK Government, as well as being on the Shortage Occupations List (SoL). Without an exemption, recruiting overseas nurses to work in the UK may be incredibly challenging and in the worst scenario, near impossible because currently salaries for many nursing staff fall below £30,000.

In addition the £35,000 minimum income threshold to apply subsequently for indefinite leave to remain is difficult for most international nurses to attain. [vi] If nursing is removed from the SoL, this restriction will apply once more, creating a barrier to long term settlement with the potential impact on the integration of much needed migrants into the workplace.

3. Low skilled migrant temporary visa

The current proposal to restrict 'low skilled' migrant visas to 12 months work in the UK has the potential to be hugely detrimental to the recruitment and retention of nursing staff within social care. The proposal as it currently stands within the White Paper is not fit for purpose. Continuity of care is vital for patient experience and outcomes, and therefore we do not believe that the twelve month temporary visa is suitable for the health and care sector. Nurses working in social care build meaningful relationships, including with people with long term conditions. The strength of this trusting relationship enables the clear identification of small changes or signs of complications that a nurse without that relationship would not spot. These relationships develop over long periods of time; patients would experience increased risk if care is disrupted year on year by the instability of the visas they would be entitled to as 'low skilled' migrants.

4. Impact of removing the cap on Tier 2 visas

The main challenge to recruiting health professionals from outside the EU is the monthly and annual overall cap on Tier 2 visas of 21,700 since 2011. This has led to recent difficulties for NHS employers to gain certificates of sponsorship for international doctors because the monthly cap was reached. It highlights the tension in the current immigration system between having criteria for selecting highly skilled Tier 2 migrants - education and salary level based - and an artificial numerical cap. This conflict has been acknowledged by both the Migration Advisory Committee (MAC) and the Migration Observatory.[vii] It is important to recognise this in countering narratives that create an atmosphere of hostility towards migrant workers.

We welcomed the announcement from the UK Government to remove doctors and keep nurses excluded from this cap in June 2018. However, we do not support an arbitrary cap which undermines the objectives of attracting the brightest and best to deliver our health and care services across the UK.[viii] It was especially welcome to note in the White Paper that it recommended the cap would be abolished entirely.

Key statistics

Assessing the full impact of changes to EU migration is made more difficult by the lack of detailed EU and international nursing workforce data across the health and care settings in the UK. The Nursing and Midwifery Council registration statistics give a picture of the pool of registered nurses as a whole who are eligible to practice. The NMC's statistical analysis does shows a clear trend towards fewer nurses from the EU joining the register since the referendum in 2016. In the 12 months since the Brexit vote there has been an 80% drop in new EEA admissions and nearly a doubling in the number of EEA nurses leaving the profession altogether.[ix] By contrast, the numbers of nurses registering from outside the EU remains fairly stable.

There is no recent comprehensive data on the unregistered EU health and care workforce, nor on the number of EU nurses currently working outside the NHS, although some parts of the social care sector have reported concerns about the loss of EEA staff post-Brexit.[x]

International nursing workforce in the UK: Non-EEA[xi]
- 11% of our total RN workforce in the UK are international nurses. As of September 2018, there were 70,177 non-EEA nurses on the register.
- Between 2015 and 2018 the number of non-EEA nurses joining the NMC register grew by 70% (from 2,474 to 4,193).
- In addition, the number of non-EEA nurses who left the register over this same period fell by 11% (from 2,066 to 1,836).

EEA nursing workforce in the UK[xii]
- 5% of our total RN workforce in the UK are EEA nationals. As of September 2018, there were 32,636 EEA nurses on the register.
- Between 2015 and 2018 the number of EEA nurses joining the NMC register fell by 91% (from 9,882 to 841)
- In addition, the number of EEA nurses who left the register over this same period grew by 47% (from 2,303 to 3,384)
- Since the referendum, over 10,000 EEA nurses and midwives have left our UK workforce.

Domestic workforce in the UK
- As of September 2018, there were 554,396 UK-educated nurses on the register. This equates to 85% of our total RN workforce.
- Between 2015 and 2018 the number of UK nurses joining the NMC register grew by 10% (from 18,217 to 20,141)
- In addition, the number of UK nurses who left the register over this same period fell by 9% (from 25,305 to 22,998)
- In England, within the NHS, the nursing vacancy rate is above 11%, with total vacant posts at almost 41,000.
- In social care, data indicates that more than one third of nurses leave their post each year, which is approximately 16,800 people in the last year. The vacancy rate is estimated at around 9%, leading to around 4,500 vacant posts at any one time. These posts are often filled by a combination of bank and agency staff.[xiii]

About the Royal College of Nursing

With a membership of more than 430,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

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