Written evidence from the Nursing and Midwifery Council

Nursing and Midwifery Council written evidence to the House of Commons Health and Social Care Committee inquiry into the impact of a ‘no deal’ Brexit on health and social care

Summary

1 We welcome the opportunity to contribute to the Health and Social Care Committee’s inquiry into the impact of a no deal Brexit on health and social care. We’re responding to the “What further planning, or reassurances, are required in order to ensure that the impact of a no deal Brexit on health and social care would be minimised” topic set out in the terms of reference.

2 The three main points we make in this submission are:

   2.1. There’s a need for greater clarity from the Government on the likely status of the UK’s relationship with the European Union following the deadline of 29 March 2019, in particular in a ‘no deal’ scenario;

   2.2. As the UK prepares to exit the EU we believe there are opportunities to deliver legislative change to transform healthcare regulation and how we protect the public, making it fit for the future; and

   2.3. We share the concerns that many individuals and organisations have raised about the pressures on workforce. We outline what we’re doing to streamline our processes, including the registration process for non-UK trained applicants and for nurses and midwives wishing to return to practise.

About the Nursing and Midwifery Council

3 We’re the healthcare regulator for nursing and midwifery in the UK. Our overall purpose is to protect the health and wellbeing of the public. We do this by setting standards of education, training, conduct and performance for nurses and midwives. We also hold the register of those who have qualified and meet those standards. Our costs are funded by the registration fees paid by those on our register.

4 If an allegation is made that a registered nurse, midwife or nursing associate is not fit to practise, we have a duty to investigate that allegation and, where necessary, take action to protect the health and wellbeing of the public.
5 We’re the largest regulator in the world with over 690,000 nurses and midwives on our register, most of whom work in front line roles. From January 2019 we will also be registering nursing associates in England.

6 We have previously submitted evidence to the Health and Social Care Committee’s Brexit and health and social care inquiry in October 2016 and in April 2017. This detailed the potential impact of exiting the EU on the NMC, and in which we raised our long standing concerns about how some aspects of EU law constrain our ability to apply all of our regulatory functions.1,2

7 Additionally, our former Chief Executive and Registrar, Jackie Smith, provided oral evidence to the Health and Social Care Committee in February 2017.3

Further clarification on ‘no deal’ arrangements

8 There’s a need for greater clarity on what the post-March 2019 position will be for regulators like us, as well as for the EU trained nurses and midwives on our register.

9 EU legislation has a significant impact on our regulatory functions. In particular, Directive 2005/36/EC ‘on the recognition of professional qualifications’ (the Directive) has a direct impact, determining how we assess and process applications from nurses and midwives trained in the European Economic Area (EEA), and setting down minimum EU-wide requirements which underpin our education standards.

10 We have concerns around the lack of clarification on any future recognition of professional qualification regime with the EU in light of ‘no deal’. Any change to the way that we’re required to assess the qualifications of EEA nurses and midwives will require significant amendments to our internal processes, IT systems, and guidance. This would include a situation where EEA applicants moved to being assessed via our non-EEA (or ‘overseas’) registration route, which has a different set of requirements. Clarification at the earliest opportunity is required, in order for us to have sufficient time to make any changes to our processes by March 2019, and to ensure that we’re still able to efficiently process applications for registration from EEA nurses and midwives after this date.

11 We’re committed to supporting the EEA nurses and midwives on our register by keeping them up to date with developments, and will provide clear information for prospective applicants for registration about any changes to the process, as and when this happens.

Our public protection concerns about the current arrangements

12 As we’ve outlined previously to the Committee, we have a number of concerns with how the existing regime, set out in the Directive, restricts the use of some of our regulatory functions, potentially leading to a risk to the public. These concerns relate to the fact that the vast majority of EEA trained nurses and midwives coming through the automatic recognition regime have to meet the EU minimum training standards, not our own UK standards, which we recently updated. This contrasts with non-EEA overseas applicants who are assessed against our own UK standards and means that we’re required to operate two separate non-UK registration processes in parallel with different requirements.

13 We believe that, should the requirements of the Directive be removed in relation to EEA applicants, then we should be able to process all non-UK applicants through the same system, ensuring that only individuals who can meet contemporary UK standards can become registered. Nurses and midwives who do meet our requirements should have the right to join our register, but we should be able to check this and where they do not, we should have the ability to apply a test of competence if required.

The nursing and midwifery workforce

EEA trained nurses and midwives on our register

14 EEA nurses and midwives make up an important part of the workforce and make essential contributions to health and social care across the UK. The total number of nurses and midwives from the EEA on our register was 33,874 (around 5%) at the end of September 2018. The total number of nurses and midwives on our register increased by almost 4,000, to 693,618.

15 There was a drop in the number of nurses and midwives from the EEA joining our register over the last 12 months. There were 888 joining our register, compared with 1,107 at the same point last year. Over the last two years there’s been around a 91% drop in those joining. However, the overall number (33,874) of EU nurses and midwives remains well above pre-2015 levels.

16 In parallel, the number of nurses and midwives from outside the EEA increased by around 2,800. The number joining the register for the first time from outside the EEA has increased by 70% over the past twelve months to 1,721.

17 It’s important to note that there are many things that are impacting on the number of EEA trained nurses and midwives joining our register, including employer recruitment choices, improving economic conditions in other countries, as well as the introduction of language testing by the NMC.
18 It’s clear that Brexit is also having an impact. We surveyed nurses and midwives who left our register between June 2017 and November 2017 to ask them why they left. For the small number of EU nurses and midwives who responded, 47% gave Brexit as one of their top three reasons, which has encouraged them to consider working outside the UK.4

19 We believe that it’s paramount that the Government makes every effort to ensure that EEA nurses and midwives, as well as other healthcare professionals, remain a valued part of the workforce. A fully resourced and staffed service is essential in maintaining public protection and in the continued delivery of high quality health and social care across the UK, and EEA nurses and midwives play a key role in this.

20 In light of this we’d welcome confirmation from the Government that settled status will be granted to EEA nurses and midwives in light of a ‘no deal’ Brexit, so as to maintain workforce levels.

Our work to support the supply of nurses and midwives

21 We recognise the existing workforce pressures that the health and social care system is under. We believe that a ‘no deal’ Brexit has the potential to compound these pressures. We’re currently undertaking a number of work streams to ensure the continued supply of nurses and midwives in the UK.

23 We’re carrying out a full review of our non-EEA (international) registration process. The ambition is to make our application process simpler and quicker for candidates by streamlining and automating as much of it as possible and improving our guidance for applicants. Through this process we’ll review all parts of our registration process including how candidates submit their application, the fees they pay, how they demonstrate they meet our UK standards, and the evidence we require of their English language capability. As a part of this we’ve held engagement events with employers, applicants, the public, and prospective applicants across the four countries of the UK.

22 Additionally, we’re currently consulting on changes to our return to practice (RtP) programmes and looking at alternatives.5 We want to remove unnecessary barriers to those returning to practice, while maintaining public protection.6 These programmes offer a route back to the register for nurses and midwives who have lapsed. Approximately 1000 individuals are readmitted to the register via an RtP programme each year. This will apply to nurses, midwives and nursing associates.

5 We are consulting on two possible alternatives to an RtP programme, including undertaking a test of competence assessing their knowledge and skills, or a self-declaration which would be underpinned by evidence of a blend of continuing professional development and supervised practice.
6 https://www.nmc.org.uk/standards/rtp-consultation/
23 The ambition is to develop a set of RtP standards that protect the public proportionately in relation to risk, that are outcome focused, that accommodate a variety of different models of delivery, and that accommodate the diverse needs of individuals wishing to return to the nursing and midwifery workforce.

**Opportunity for legislative change as the UK prepares to exit the EU**

24 We believe that as the UK prepares to exit the EU and consequential changes will need to be made to our legislation, there are opportunities to deliver wider legislative change to transform how healthcare regulation is undertaken.

25 In our view, effective regulation is well placed to be an enabler of change. However, we’re currently held back in our ambitions to be a modern regulator by our outdated and prescriptive legislation. The Government has recognised the continued need for regulatory reform and in late 2017 consulted on wholesale legislative change in *Promoting professionalism, reforming regulation*.7 We responded to this consultation in January 2018 outlining the kind of reform we want to see.8

26 At a time when the health services across the UK are under pressure and there are significant workforce pressures, regulation can and should be helping to support the UK to maintain a well-qualified and competent healthcare workforce. We can do more, and we can help affect cultural change in our healthcare provision, but we need legislative change to do this. We believe that effective change could be delivered by the following:

26.1. A single overarching piece of legislation that is proportionate and high level in focus, which would replace the current resource intensive NMC and Government commitment, and end the need for continual resource intensive small scale changes.

26.2. A flexible model whereby our Council is able to specify requirements in policy and guidance, instead of them being in detailed Rules, so that we can swiftly change them to flex our regulatory approach when needed.

26.3. The ability to set our fees in policy following public consultation, without the need for them to be enshrined in legislation.

26.4. The ability to change and develop the structure of our register, so that it provides clarity for the public about who is caring for them and reflects current and future workforce configurations.

26.5. Powers to charge for the approval of nursing, midwifery and nursing associate education programmes so that we can respond to new and diverse models of

education delivery, increasing routes of access to the professions, without adding to the financial burden through existing registrants' fees.

26.6. The ability to set fitness to practise case management powers ourselves which would improve efficiency and reduce delays during hearings, increasing our ability to dispose of cases appropriately and save money.

26.7. Enhanced disclosure powers so that we can share information with families and patients, where appropriate giving a voice to them and others who are affected by our processes.

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