Response of the Royal College of Nursing to the Nursing and Midwifery Council consultation on revalidation

With a membership of over 410,000 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.

This document responds to the Nursing and Midwifery Council (NMC)’s consultation on revalidation. We have produced this standalone document because the NMC’s standard proforma did not allow the RCN to best represent the views and interests of the many thousands of members who informed the development of our response.

Executive Summary

Introduction

RCN supports the underlying intentions of revalidation. Most nurses agree that revalidation will help to protect patient safety and to support a culture of professionalism. But thousands of our members have also shared with the RCN the real and reasonable concerns they have that the infrastructure and resourcing required is not yet in place for the NMC’s revalidation proposals to be fit for purpose.

The RCN recognises the challenges involved in designing a system which will be both effective and proportionate, given the size of the NMC register. We are committed to supporting the NMC to develop a system which meets these requirements.

RCN member engagement

In recognition of the immense professional significance of the revalidation project, the RCN has engaged extensively with our membership in order to respond to this consultation. We developed a briefing paper and a survey highlighting the NMC’s key proposals. The survey was open for four weeks between 28 January and 1 March 2014 and we received 9,555 unique responses.

RCN also engaged with our professional forums, regional boards and held a round table for senior nurses to discuss revalidation proposals. We are therefore confident that our
response reflects the views, concerns and experience of nurses working across a broad range of roles and settings.

**Nurses’ response to the NMC proposals**

- Responses to our survey questions repeatedly demonstrated the unequivocal value nurses place on maintaining a strong element of professional registrant input into the revalidation system.

- The use of appraisal in revalidation elicited strong views, with RCN members expressing questions and concerns of both principle and practicality. The purpose of appraisal (for employers to review performance in a given role) and of revalidation (to confirm fitness to remain on the NMC register) are entirely separate; and there is significant risk that conflating the two will lead to confusion and unacceptable outcomes. RCN believes the risk of this conflation was foreshadowed in the recent public sector pay announcement in March 2014, and the RCN is aware of ever greater worries amongst nurses about the linking of professional nursing practice issues with employment processes that could be open to abuse and mismanagement.

- There must be clear separation between the employment and regulatory functions of appraisal.

- RCN members’ response to the NMC proposals on use of appraisal must also be seen in the context of a consultation document which offered no other alternative proposals for consideration.

- Our survey results demonstrate a strong hierarchy of preference in relation to who might be an appropriate to provide third party confirmation that a nurse continues to be fit for practise. The majority of nurses told us this absolutely must be a fellow NMC registrant.

- Revalidation will not be cost neutral and more funding is needed. An overwhelming theme in the thousands of comments RCN received is the fear that revalidation will be under resourced, and thus fatally undermined. Resources are needed to develop statutory guidance for the use of appraisal and third party confirmation and also to provide relevant training in implementing this guidance. Getting employers ready to perform this function will be a significant undertaking.

- If the revalidation model is to provide genuine assurances and confidence that the nursing workforce is up to date and fit to practice in a modern healthcare environment, the current dearth of support for Continuing Professional Development (CPD) is another concern which cannot be underestimated. Nurses told us this was the biggest barrier to making revalidation work.
The RCN requires urgent clarification from the NMC about the route of appeal for registrants whose fitness to practise is not confirmed under the revalidation process. It is absolutely unacceptable to the RCN that registrants might be removed from the NMC register via an administrative process.

Open commentary from nurses also highlighted – alongside a desire for revalidation to work – fears that the system could become at best another ‘tick box’ exercise in bureaucracy, and at worst, a direct distraction from patient care.

There is work to be done by the NMC itself to convince nurses that the organisation is ready to deliver on the challenge of revalidation. In particular, nurses require reassurance that revalidation will not result in greater costs to individual registrants through a raised registration fee. The RCN remains resolutely opposed to any increase in the annual registration fee for nurses.
Third party confirmation of continuing fitness to practise

Who should provide third party confirmation of the continuing fitness to practise of a nurse or midwife?

- An NMC registered nurse or midwife who oversees the work of the nurse or midwife.
- A peer NMC registered nurse or midwife who has worked alongside the nurse or midwife going through revalidation

This question goes to the heart of what it means to be part of a regulated profession. Public protection is central to revalidation, but revalidation is also a means by which individuals can demonstrate their commitment to maintain the standards of their profession. Only a fellow registrant is competent to provide a meaningful decision on whether an individual is meeting the standards expected in order to remain on the register.

Responses from RCN members who completed our survey demonstrated strong support for the principle that it must be a NMC registrant who provides third party confirmation of continuing fitness to practise.
Respondents also demonstrated a hierarchy of preference for who this fellow registrant should be. The clear preference was for this to be an NMC registrant who oversees the work of the nurse seeking revalidation. In recognition that this is not always possible, the next preferred option was for a peer NMC registrant who has worked alongside the individual. This is discussed in greater detail below.

The RCN also explicitly asked our members whether a person who is not a registered nurse or midwife should ever be able to confirm a registrant as fit to practice, and two thirds felt they should not be. The minority who agreed that a non registrant should be able to perform this role may reflect the proportion of nurses who themselves work in roles where their manager is not a registered nurse or midwife.

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<th>Should a person who is not a registered nurse or midwife be able to confirm continuing fitness to practise?</th>
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RCN members believe that only a fellow registered nurse or midwife can be professionally accountable and equipped to provide a judgement on the issue of continuing fitness to practise. It is a serious concern that a non registrant third party confirmer may not have the required knowledge (including of the requirements of the NMC Code) or competence in the field of nursing to perform this role, which could both disadvantage registrants seeking revalidation from this individual and, indeed, place patients at risk. Members told us:

“A nurse’s role is complex. To confirm someone is fit for practice requires someone who fully understands that role with all its facets…”

“A nurse/midwife will understand the NMC code and what this entails on a day to day basis. Anyone outside of the profession should not be approached to comment on this.”

Non registrants carrying out this role would also undermine one of the principles underpinning revalidation, which is to promote and foster a sense of professionalism amongst nurses and midwives:
“If we are professionals...how can someone other than a nurse confirm this? I cannot confirm that an accountant or a policeman is fit for practice!”

Although there is strong feeling the confirmers should be a registrant, RCN recognises that not all registrants are currently managed by a registered nurse or midwife. This may be because they are not in fixed employment, because they are self-employed, because they are working in an integrated care environment, or because they are in very senior roles – these are illustrative examples, there are many more.

Therefore, in such cases, the majority of members responding to our survey agreed that a fellow NMC registrant who has worked alongside the individual concerned might carry out the third party confirmation role. There was a reduced amount of support (less than half of all respondents) for this role being carried out by another registrant who has discussed continuing fitness to practise with the individual seeking revalidation, and a similar amount of respondents felt that another UK health professional could perform the role. There was very little support for the proposal that a manager who is not a registered nurse or health professional could carry out this role.

Members who told us that they would support a non-registrant performing this role commented:

“Yes, providing that the assessor is a health care professional and has an understanding of a nurse’s role.”

“Some nurses are employed by non-nurses. A pragmatic approach is needed to ensure revalidation occurs and is undertaken properly...support and advice will need to be available for all validators.”

RCN believes that nurses and midwives need to see more detail from the NMC about how other options involving a fellow registrant or regulated health professional might work in practice, including guidance and clarity on the safeguards that would need to be in place.

In order to build confidence that the third party confirmation will be effective, the NMC will need to produce robust guidance as to the assessment method and criteria to be used by an assessor in order to confirm somebody’s continuing fitness to practise. It is important that this does not become a ‘tick box’ exercise and also that the system is protected against abuse.

RCN also believes that significant resources will be required in order for third party confirmation to be effective. Individuals responsible for performing the third party confirmation role will need training and support in order to carry out this function.

Although this option was not included in the consultation document, some RCN members suggested a potential solution involving a three way ‘conversation’ between a
registrant, manager and a registered nurse or midwife acting as third party confrimer to verify the facts. This would inevitably have additional resource implications.

Some RCN members have also expressed the view that the third party reviewer should be independent and fully trained in a supervisory/reviewer function. RCN recognises that this would place an extra resource burden (administrative, time, financial) on the individuals concerned and the system as a whole.

There is strong and reasonable concern that if the third party confirmation comes from a registrant’s manager, this may become confused with performance issues which relate to the registrant's particular role, rather than their fitness to practise and remain on the register. Again, this concern reflects the challenge that the NMC will have in developing statutory guidance which creates clear separation between the functions of appraisal in terms of a registrants’ role with the employer and its use for revalidation.

**Should the NMC link revalidation to an existing employer process?**

The RCN has significant concerns about a revalidation system, which mixes professional regulation with employer processes. We believe there is a high risk of confusion of purpose and ultimately, poor decision making under such a system. The detail of our concerns is set out below.

RCN asked members about the principle of employers having a role in revalidation, allowing the NMC to use existing infrastructure for revalidation. Two thirds of respondents agreed this would be acceptable. However, the RCN notes that the NMC’s consultation offers no alternative to this model for nurses to consider.
Whilst RCN members are pragmatic about the potential benefits to using an existing mechanism such as appraisal, we have received substantial feedback from members with serious and reasonable concerns about how this will work in practice.

Recent announcements (in March 2014) from the government on the public sector pay\(^1\) award demonstrate that the line between employment terms and conditions issues and matters of professional competence and performance is already blurred. We are concerned that tying an issue such as revalidation, which is of extreme professional importance, to processes which employers may use for purposes other than professional, raises many risks.

If appraisal is to be used for revalidation, the process must be robust enough to ensure that revalidation is objective and based on a nurses’ ongoing fitness to practise, and is not undermined by the inter-personal relationship between the appraiser manager and the registrant. The role a registrant carries out for the employer must be kept distinct and separate from the question of their fitness to remain on the NMC register. Clear and explicit statutory guidance will be required to guard against abuse of the appraisal process in relation to revalidation, and the NMC must ‘police’ employers’ compliance with this guidance.

Members told RCN:

“The NMC should be the main body to have a role in revalidating the registration, as employers may affect results and validity with bias.”

“What happens when I have issues with my employer.”

“This should be the role of the NMC and not our employer. The two are completely separate…”

There are also practical barriers regarding access to appraisal. For example:

* Not all nurses work in a setting in which they currently undergo regular appraisal. Examples include (but are not limited to): bank nurses and self employed nurses.

* Some nurses work in settings where access to and quality of appraisal is patchy and inconsistent.

For example, there are no national systems of appraisal/supervision within the independent care home sector. If revalidation is dependent on appraisal systems being in place - and being effective - this will be a serious challenge in making the new model work in practice.

* Even within the NHS, where nurses and midwives should be receiving annual appraisals and training and development plans, not all nurses currently receive well structured appraisals.

In the most recent staff survey for NHS England, whilst 85% of nursing/midwifery staff reported that they had undergone appraisal in the last 12 months, only 42% reported that this was well structured\(^2\).

The 2013 NHS Scotland Staff survey also demonstrates that not all nurses and midwives had taken part in performance and development reviews in the previous 12 months\(^3\); and that of these, 75% had received or expected to receive the training identified in a Personal Development Plan.

The picture is even worse in Northern Ireland, where only 43% of nurses/midwives had an appraisal or KSF development review in the previous 12 months\(^4\). This in fact has fallen since 2009, when the figure was 47%. This raises serious concerns about the preparedness of the employers to deliver the infrastructure required. A similar picture is apparent in relation to nurses receiving a personal development plan – with only 42% having one of these, and only half of this group reporting that they had actually received the training, learning or development identified in the plan. It is hard to be confident that the HSC could deliver the required appraisals.

“There (are) enough issues with appraisals and the efficacy on professional development and patient care as it is. They are mostly just paper exercises to make managers look good, but no good for the development of staff…”

“Standard of appraisals would vary across different trusts. Too subjective. Validation should be standardised throughout the country.”

Once again, the RCN must reinforce the fact that substantial additional resources will be required if appraisals are to be used for revalidation purposes. For example, if appraisal content is to be matched against the NMC Code, in order to demonstrate ongoing fitness to practise, this may require significant changes to appraisal systems and additional training for appraisers.

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\(^2\) [http://www.nhsstaffsurveys.com/Page/1019/Latest-Results/Staff-Survey-2013-Detailed-Spreadsheets/](http://www.nhsstaffsurveys.com/Page/1019/Latest-Results/Staff-Survey-2013-Detailed-Spreadsheets/)

\(^3\) [www.scotland.gov.uk\%2fResource\%2fF0044\%2fF00440163.pdf](http://www.scotland.gov.uk\%2fResource\%2fF0044\%2fF00440163.pdf)

Continuing Professional Development

Which of the following do you consider to be acceptable measures of Continuing Professional Development (CPD) activity?

- Certificates
- Credits
- Hours
- Work based scenarios
- Other

RCN believes that some of the measures listed above, such as certificates and hours, do not represent useful measures of learning, or successful outcomes or benefits to practice from CPD; but rather are evidence of attendance or completion of an activity.

In order for revalidation to be meaningful and to achieve the underlying intentions of protecting the public and promoting professionalism, revalidation proposals should take into account how CPD has informed the registrant’s practice. Credits, through the assessment process; or reflection, may be more useful measures of this.

We note the reflection is highly subjective, and clarity is needed from the NMC around how it can be structured and assessed if it is to be used as a reliable measure of CPD for the purposes of revalidation.

We suggest also that the NMC consider further options for measures of meaningful CPD, such as scenario based learning, visits to other establishments and the opportunity to work alongside other specialists and professionals, as additional measures of CPD.

How many hours in a three year period would be an acceptable amount?

As noted above, it is not easy to specify a set number of ‘hours’ as being acceptable for CPD, as this in itself does not demonstrate what learning outcomes have been achieved from the CPD activity. Again, RCN believes that reflection is a key concept, in order for a registrant to demonstrate the relevance of the CPD to their own practice.

NMC should consider developing accredited tools which allow registrants to carry out this reflection in a consistent way.
Do you agree or disagree that learning and improving from feedback is more important than whether feedback is positive or negative?

The RCN agrees that feedback is an important way for nurses to reflect on and improve their practice. We believe that ‘negative’ feedback is only helpful where it can be supported within additional, constructive proposals to aid improvement.

RCN suggests the NMC may wish to explore further the value of the 360 degree feedback/appraisal model, as a means to ensuring that nurses and midwives receive feedback from a variety of sources with the benefit of witnessing the individual’s practice from varying perspectives. As with any method of gathering commentary on an individual, careful thought and guidance would be needed with a 360 degree approach, as to how to give feedback in a way that is helpful and does not damage relationships.

We note that whilst the regulatory model for midwives is currently under review, the supervision model currently in place, offers many benefits for registrants in relation to supporting practice and learning.

Who should contribute to this feedback on practice?

- Patients and service users
- Peers (other registered nurses and midwives)

Consultation with RCN members demonstrated a clear hierarchy of support in relation to the options outlined by the NMC.

Feedback from registered nurse and midwife peers, patients and other colleagues all received high levels of support, whilst feedback from students, patients’ families and carers received the lowest level of support. RCN therefore is not convinced these would be effective or appropriate sources of feedback on practice.
Overall, the RCN welcomes, in principle, proposals to include feedback on practice as part of revalidation. However, the NMC will have to ensure that the system put in place to collect feedback has a number of safeguards. For example, it will be important to protect individual registrants from vexatious, malicious or unfounded complaints. We also note that the value of feedback can be limited – and have potentially damaging impacts on the registrant - if it is not given by a person who understands the context in which they are doing so. People providing feedback must be clear on what revalidation means, and on the relevance and importance of their feedback on an individual registrant, to the process.

In addition, a number of members have raised concerns that feedback requirements could lead to the ‘pestering’ of patients. We note that patients are already being asked to provide feedback on their care, for example the ‘friends and family test’ and for other measures.

RCN also notes that nurses work across a diverse range of settings and roles. Being overly prescriptive about the type and nature of feedback could make revalidation a challenge for some groups. For example, feedback from service users will be difficult for many registrants who do not deliver hands on care. Nurses and midwives working in academia, delivering training, and in management positions are some examples (this list is not exhaustive but is intended to illustrate the variety of settings and roles in which nurses are employed).

It is essential that the NMC puts in place a robust system and clear guidance for the management and collection of feedback, to include a standardised form for recording feedback and evidence.

**How much feedback do you think a nurse or midwife needs to receive and assess to have a positive impact on improving their practice?**

This is a contentious question. Many RCN members voiced serious concerns about the usefulness of a fixed quota, as well as the bureaucracy of having to meet a ‘target’. Prescribing a set number of feedback instances may foster a ‘tick box’ approach and undermine the intended reflective purpose of feedback. RCN believes it is the outcome of the feedback which matters most, and that the NMC should develop criteria for what ‘good’ feedback and reflection on that feedback would look like.

In addition, as noted above, revalidation will have to work for nurses and midwives in all settings, and it is clear that gathering feedback will be easier for nurses working in some settings rather than others (for example those working in roles with daily and frequent contact with patients or working in teams with many other professional colleagues).
Audit

How best could a nurse or midwife provide evidence of meeting the requirements for revalidation to the NMC if required to do so?

- Via NMC templates
- Online
- Their own documentation
- Other

How do you feel risk could be assessed most effectively?

The RCN agrees with the overall proposed approach to approach audit via a mix of random sampling from the register and sampling based on risk intelligence gathered by the NMC.

The size of the random sample will have to be large enough to make the process meaningful, and RCN welcomes clarification from the NMC about intentions in this regard.

Scope of Practice for Nurses

RCN believes that any agreed definition of nursing practice must reflect the full variety and scope of the roles which registered nurses are currently undertaking. The current statement from the International Council of Nurses (referenced in the NMC consultation document) could be strengthened to more widely encompass nurses carrying out roles which do involve providing 'hands on care' for patients as well as those at the opposite end of the spectrum, who are responsible for delivering very invasive, hands on care. Nurses increasingly take on roles in which they are the clinical lead and RCN has members for whom the current definition of the scope of practice is being pushed to the limits, and who may need to become members of a medical royal college in order to be indemnified.

However, nursing skills, competencies and experience are also a prerequisite for many roles which do not involve direct patient care, but which are of fundamental importance to effective governance of health services, the protection of safe patient care and promotion of health and wellbeing.

The RCN asked members whether they felt that a revalidation model should eventually reflect where nurses are working at advanced practice level. The majority of respondents felt that this should be the case. We recognise that the NMC register does
not currently record nurses working to advanced level, but believe that as the nursing profession continues to develop and nurses increasingly take on roles delivering complex care, the regulatory model will have to develop in response. The RCN believes this to be a matter of patient safety.

The Code

How would you rate the Code on the following features?

- ✓ Layout and structure of information: satisfactory
- ✓ Language and tone: satisfactory
- ✓ Easy to read and understand: satisfactory
- ✓ East to apply in different roles, settings and scopes of practice: poor/inadequate

There are many benefits to a professional code which is simple and easy to use. However, nurses and midwives need to be able to clearly understand the extent of their duty in relation to the Code’s requirements. Where this is ambiguous, the NMC must make available further guidance including worked examples.

Are there any topics in the Code and accompanying guidance which need updating, promoting or are missing?

RCN believes there are some sections of the current code which are so simplified that they risk misleading nurses as to their responsibilities and duties. We include
obligations on delegation and confidentiality in this. Medicines management also needs to be updated.

Further guidance is needed on issues around end of life care; safeguarding; scope of practice; treatment and care at the end of life (including DNR CPR roles and responsibilities); raising and acting on concerns about patient safety; reporting criminal and regulatory proceedings in the UK; and when a patient seeks advice or information about assistance to die.

Do you agree or disagree that the Code should require nurses and midwives to be aware of UK applicable quality standards in health and social care?

The purpose of the NMC Code is to set out the standards that individual nurses and midwives are expected to comply with and uphold in their practice. RCN is wary of the Code being altered to go beyond that scope, for example into areas for which employing organisations are rightly held to account for compliance.

Support

What would be the best ways of the NMC supporting nurses and midwives in the revalidation process?

- Supporting information for everyone
- Supporting information for employers

The NMC will need to provide detailed statutory guidance to support revalidation (for example, as stated above, on the use of appraisal, implementing third party confirmation, the collection and evidencing of third party feedback on practice, and to support CPD standards and evidence).

Outcomes

The key of revalidation is to improve standards of practice on a continuing basis. Do you agree or disagree that revalidation will improve patient safety.

The RCN is committed to supporting the NMC to implement an effective, proportionate model of revalidation. The majority of RCN members responding to our survey agreed that revalidation will improve patient care (and bring benefits to the nursing profession), for example by promoting the importance and necessity of CPD. However, this belief is subject to a number of caveats, relating to whether the NMC can ensure the system
works as intended. As stated above, we believe revalidation will be fatally undermined from the outset without appropriate resourcing and guarantees for nurses to undertake the CPD they need to maintain their skills and competence.

“*It is difficult at times for nurses to be released from (their) posts to attend training. Revalidation will hopefully make this compulsory instead of at the employer’s discretion.*”

It is in the best interests of both patients and the nursing profession, for revalidation to be effective. This means it cannot be tokenistic, or the ‘tick box’ exercise that many of the respondents to our survey were concerned it would become.

There is a difficult balance to strike between the intentions behind proposals such as third party confirmation and feedback on practice, and the realities of the increased burden of bureaucracy this will by necessity bring about. It may take away from the spirit of the intended outcomes and purpose of revalidation, and many of our members are concerned it may take away from time that should be spent delivering patient care.

RCN believes that considerable additional resources will be required to make revalidation fit for purpose. This includes investment in systems for appraisal and training for assessors, investment in systems for collating and recording feedback on practice and – critically – support for registrants to undertake CPD. This must include protected time to carry out CPD. RCN is aware that nurses are not currently accessing the CPD or mandatory training that they need. If this situation is not recognised and reversed, it could seriously compromise the likely success of the NMC’s revalidation proposals.

However, registrants must not bear the burden of increased costs in order to provide the revalidation proposals with the resourcing they require to be effective.
We asked our members what they felt the barriers would be to making revalidation effective and fit for purpose. They told us:

![Bar chart showing the distribution of responses to barriers to revalidation: 91% lack of protected time to undertake CPD, 76% poor appraisal processes, 69% lack of access to effective mentorship, 20% other, please detail.]

**Appeal**

The RCN requires assurance and urgent clarification from the NMC about the route of appeal for registrants whose fitness to practise is not confirmed under the revalidation process. It is absolutely unacceptable to the RCN that registrants might be removed from the NMC register via an administrative process.

Where concerns about a registrant’s practice are identified, there must be a process for providing redress and remedial action (e.g. return to practice courses, preceptorship, or provision of other learning opportunities, depending on what is appropriate).

**Final comments**

Clarification is needed from the NMC on several issues. We have outlined these above, for example, the detailed guidance that will be required for employers in making sure that appraisal can be made to work effectively for the parallel but distinct purposes of ‘employment’ and revalidation needs.

The RCN is currently undertaking research into the approach taken to revalidation by a sample of other developed countries. We intend to disseminate the results to help aid debate and discussion amongst our members in relation to the development of revalidation in the UK. At this stage, topline reflections the RCN can make are that there is no uniform approach for revalidating nurses and midwives and that many countries have no revalidation/relicensing system at all. The emerging research highlights significantly different approaches in those countries where revalidation of
nurses and midwives is a mandatory requirement. None so far mirror the NMC’s proposals.

In addition, whilst some regulatory systems specify a minimum CPD requirement only, a number of provinces in Canada for example have pioneered an approach which allows nurses to reflect on their annual practice, identify areas for improvement and craft a tailored learning programme to meet these needs on their own, without recourse to minimum hours of CPD or mandatory third-party feedback/appraisal.

Royal College of Nursing

31 March 2014