Royal College of Nursing response to Migration Advisory Committee call for evidence: Partial review of the shortage occupation lists for the UK and Scotland

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.

The RCN has serious concerns that there is a shortage of nurses in the UK and that health care providers are struggling to recruit nurses from the UK and the European Economic Area (EEA). This document is the RCN’s response to the Migration Advisory Committee’s (MAC) call for evidence to support the review of the shortage occupation list.

The RCN has serious concerns that there is a current shortage of nurses in the UK and that health care providers are struggling to recruit nurses from the UK and the European Economic Area (EEA). In this response to the Migration Advisory Committee’s (MAC) call for evidence we argue that not only is there a current shortage of available nurses to employers, but it is likely to get worse in the next few years before measures that may be put in place to help the situation (such as increasing student commissions) have an impact in the workforce.

From 2010, NHS providers have had to find ways to make efficiency savings. Many of the savings have been achieved through cuts to the nursing workforce, and the RCN have documented this through its Frontline First campaign. However, in 2012 as a direct result of Sir Robert Francis’ Inquiry into Mid Staffordshire hospital, staffing levels were brought to the heart of patient safety discussions. Following his recommendations and subsequent reports from Sir Bruce Keogh and Professor Don Berwick, the National Institute for Health and Care Excellence (NICE) and the National Quality Board (NQB) published safe staffing guidelines which applied to adult acute hospital wards in England, alongside developments in other parts of the UK. With the attention fixed on safe staffing levels, Trusts in England have been
required to increase the number of nurses to deliver safe levels of care and meet patient need.

However, although acute Trusts have seen an increase in nurse numbers post-Francis, there are many clinical settings which have seen a steep decline in the number of nurses. As part of the RCN’s *Frontline First* campaign we have also documented that there has been a disproportionate loss of more senior and specialist nurses in England. Clinical settings need both, the appropriate number of nurses and the correct skill mix. Throughout our campaign we provide evidence that in many cases the current gap is being plugged with less experienced nurses, but this does seriously impact on the clinical decisions that can be made and the care than can be provided to patients.

The shortage of nurses is difficult to evidence but increased overseas recruitment, vacancy rates, high use of agency staff and the level of student commissions are some of the indicators we include to highlight the real shortage of nurses that is being felt on the ground and reported to us by our members.

In this evidence we highlight:

- the current shortage of nurses in the UK
- the future implications for non-EU nurses working in the UK as a result of changes to immigration laws
- the lack of detailed published data available across the NHS and the independent sector to assess the level of shortages by sector or speciality.

The RCN believe that there is evidence to support the role of ‘adult nurse’ (general nurse) being included on the shortage occupation list. A shortage is expected due to:

- a fall in commissions experienced in 2012/13, expected to impact on number of newly qualified nurses in 2015/16
- general staff shortages reported across NHS employers and the independent sector who are increasingly plugging this shortage with expensive and unsustainable use of agency nursing
- an ageing uk nursing workforce
- changes to the immigration system and eligibility for indefinite leave to remain which may lead to many non-EU nurses leaving the UK from 2016
- a lack of systematic workforce planning for nursing across the UK that has (in part) contributed to the current problems
- an ageing population with more complex health needs

We have presented the evidence in line with the three tests in the call for evidence.
1. Is the individual occupation or job title sufficiently skilled to be included on the list?

Nursing is a skilled profession. All registered nurses are required to be qualified to degree level or above. The salary for a registered nurse is above the £20,500 threshold; the starting salary for a band 5 nurse begins at £21,478, and the maximum salary a nurse could earn is £98,453 for a band 9 nurse.¹

2. Is there a shortage of labour within each skilled occupation or job title sufficient to merit inclusion or retention on the list?

Below we present the available data which strongly indicates that there is a shortage of nurses available to employers in the UK. In addition to the limited data that is available, as the largest nursing trade union, we are repeatedly being told by our members and health care employers that they are struggling to recruit from the UK and increasingly, from the EEA.

**Inflow and Outflow**

Inflow and outflow data recorded by the Nursing and Midwifery Council (NMC) and obtained by the RCN in 2014 illustrates the shortage in nurses. To work as a nurse in the UK every nurse must be on the NMC register. The NMC also records verifications issued to other countries which gives an indication of the outflow of registered nurses compared to inflow from new registrants.

This inflow and outflow data demonstrates that between 2012 and 2014, the UK has become a net importer, with the inflow of nurses exceeding the outflow at 6228 inflow compared to 4379 outflow in 2013/14. The outflow trend has been fairly erratic in the last ten years.

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¹ Agenda for Change pay Rates, as listed on the RCN website, available here: http://www.rcn.org.uk/support/pay_and_conditions/pay_rates_2014-15
EU and non-EU breakdown

Data from this FOI request to the NMC also highlights the pattern of annual registration of nurses and midwives from EEA and non-EEA countries since 2003/4. Overall numbers of new entrants dropped rapidly between 2003-4 and 2009-10 from 15,152 to 2,519 less demand from employers. However, the figures rose to 6,228 in 2013-14 comprising mainly of entrants from the EEA, indicating that employers in the UK have been turning once more to nurses outside of the UK.

It is noticeable that the balance between non-EEA and EEA registrants has changed markedly over this period. In 2003-4, EA registrants made up just seven per cent of overseas admissions, compared to 87 per cent in 2013-14. In the last six years the majority of new entrants have come from EEA countries. Stricter immigration rules as well as more stringent application requirements implemented by the NMC for international nurses have played a part in this. Delays to NMC registrations are reported to have led to up to 5000 overseas nurses drop-out of the process. While the RCN supports the importance of rigour to ensure patient safety, these changes are likely to affect the NMC’s capacity to process applications promptly.

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2 Daily Mail http://www.dailymail.co.uk/health/article-122626/Chaos-keeps-skilled-nurses-NHS-wards.html
Figure 2: Number of new entrants to the UK nursing register from non-EU and EU sources (2003/4 to 2012/13)

Source: Nursing and Midwifery Council, obtained under Freedom of Information

The top countries providing international nurses and midwives (by country of education) last year were:

From within the EU:

<table>
<thead>
<tr>
<th>Ranking</th>
<th>Country</th>
<th>Number of nurses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Spain</td>
<td>2,062</td>
</tr>
<tr>
<td>2</td>
<td>Portugal</td>
<td>1,351</td>
</tr>
<tr>
<td>3</td>
<td>Ireland</td>
<td>545</td>
</tr>
<tr>
<td>4</td>
<td>Romania</td>
<td>403</td>
</tr>
<tr>
<td>5</td>
<td>Italy</td>
<td>348</td>
</tr>
<tr>
<td>8</td>
<td>Poland</td>
<td>210</td>
</tr>
</tbody>
</table>

And from outside of the EU:

<table>
<thead>
<tr>
<th>Ranking</th>
<th>Country</th>
<th>Number of nurses</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Philippines</td>
<td>302</td>
</tr>
<tr>
<td>7</td>
<td>India</td>
<td>292</td>
</tr>
</tbody>
</table>

The NMC does not hold data on the break-down of most post-basic specialist nursing qualifications and because of this we cannot get a sense of the skill-mix of
the new entrants, for example which nurses specialise in theatre nursing, A&E or intensive care, for example. The data is also not publicly available from other sources on relevant qualifications held by overseas workers currently working in the UK health service which might also be used to build evidence on the different specialisms.

Vacancies

How nurses are distributed varies across the UK countries and across different settings and sectors. In general, there has been investment in acute, elderly and general medicine sectors (seen as a response to the Francis report and other, associated reports which have highlighted problems with NHS care and staffing levels) yet this is at the expense of community nursing and mental health nursing.

A shortage in nursing labour can be further illustrated by the number of vacant posts. A recent survey by Health Education England found that 83 per cent of their sample of 104 English NHS trusts reported that they are experiencing qualified nursing workforce supply shortages. The RCN believes that a key cause of inadequate staffing levels is under capacity in the workforce, with a great many vacant posts across the system. The RCN undertook a survey in early 2013 of around 2,000 ward sisters and found that 69 per cent reported a difference between the total funded establishment and the number of staff actually employed in post. Of these, 52 per cent reported that actual staffing complements were slightly under the funded establishment and 34 per cent reported they were significantly under the funded establishment. Reasons for understaffing included cuts to posts (reported by 27 per cent of respondents) and vacancy freezes (25 per cent), but difficulty recruiting was found to be by far the most significant cause, reported by 53 per cent of respondents.

Our recent Frontline First report - Running the Red Light - highlighted significant challenges ahead, with an impending crisis in the supply of registered nurses, and employers struggling to recruit to as many as 20,000 FTE nursing vacancies. There is also worrying evidence that the recent renewed recruitment, or ‘Francis effect’, has been limited to the acute, elderly and general sector, with community services, mental health and learning disabilities nursing lagging far behind; having suffered heavy workforce cuts in past years. The last four years have seen a drop of 3,385 posts in mental health nursing across the UK.

In June 2013, RCN obtained FOI data from a sample of 61 trusts in acute, community and mental health care, across England, the RCN found an average 6 per cent nursing vacancy rate, but there was significant variation, with around one in

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4 NHS Employers (May 2014) NHS Qualified Nurse Supply and Demand Survey – Findings available at: http://hee.nhs.uk
seven trusts reporting vacancy rates over 10 percent, and some as high as 16 percent. With 307,492 full time nursing, midwifery and health visiting staff in post in June 2013, an average six per cent vacancy rate would equate to an estimated 19,526 vacant full time posts. Depending on various estimates of full to part-time working, this could represent between 22,106 and 34,195 individuals. The RCN is therefore concerned that while the NHS in England has lost 3,859 full time nurses, midwives and health visitors since May 2010, the scale of the problem may be far larger, with the NHS potentially operating on nearly 20,000 fewer full time nursing staff than planned.6

However, data is not routinely collected on vacancies in England to enable us to do a thorough analysis, although it used to be published. Scotland does collect data on nursing vacancies, and is broken down by specialism. In the NHS in Scotland, nursing vacancies have increased through 2014 and there were 1,641.5 WTE nursing vacancies in June 2014, a vacancy rate of 2.9%. Scotland data is available here: http://www.isdscotland.org/Health-Topics/Workforce/Publications/.

There is also a lack of data to support the monitoring of nursing vacancies within the independent sector, which means we are unable to form an accurate picture of the nursing labour market in the UK.

A recent Care Quality Commission report highlighted the challenge of high vacancy rates and high turnovers in care homes, recording a turnover rate for registered nursing staff in social care of 32%. This shows some of the recruitment challenges faced in the sector and potentially impacts on the quality and availability of care for some of our most vulnerable citizens.

Agency

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.7 Agency use is a useful proxy for understanding where recruiters are having difficulties recruiting full time staff, in the absence of robust vacancy data.

Monitor’s quarterly report has also highlighted the huge cost burden of agency to the NHS, reporting that foundation trusts had spent a record £831 million on contract and agency staff in England over the six months to 30 September 20148 and 9,325,810 spent on agency staff in NHS Scotland in 2013/149. It’s clear that use of rising use of agency staff is not sustainable as a long-term solution to nursing staff shortages.

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9 http://www.isdscotland.org/Health-Topics/Workforce/Publications/data-tables.asp?id=1212
We’re also seeing large scale recruitment drives to EU countries, with local regions struggling to recruit. In September 2014, the Nursing Times reported that three quarters of hospital trusts in England have recruited nurses from the EU in the last four years, with 50% of their sample stating that they had sent recruitment teams abroad.\(^{10}\)

**Ageing workforce**

Moreover, estimates of the age profile of qualified nursing staff using available data from NHS England, Scotland, Wales and Health and Social Care Northern Ireland, shows a progressively ageing workforce. Comparisons of data from 2005 and 2013 highlight how older workers form a substantial and growing component of the workforce in all four countries.

In England in 2005, just over a third (37 per cent) of the workforce was aged 45 or over, compared to 46 per cent in 2013. Data shows a similar picture in Scotland with two fifths (41 per cent) of the nursing and midwifery workforce was aged over 45 in 2005, compared to over half (55 per cent) in 2013. The age profile of the nursing workforce in Wales has also changed; in 2007, two fifths of the workforce was aged 45 or over compared to just over half in 2013.\(^{11}\)

The ageing profile of the workforce may lead to shortages in some areas as nurses retire. It also has the potential to create problems for workforce planning, with employers unsure about when nurses will retire. There can be a lot of variation in the retirement plans of individual nurses, particularly as they work to an increased retirement age.

**Commissions**

One way to address any shortage is to increase the number of student commissions. Analysis of the numbers of student places commissioned in England demonstrates that number of places has begun to rise again, after falling to 17,219 in 2012/13 from 20,089 in 2010/11. There are 19,206 places provided in 2014/15 compared to 22,815 in 2003/4. In Scotland places have risen in 2013 and 2014, after decreasing to 2430 in 2012/13. There are 2698 places in 2014 compared to 3935 in 2003/4.\(^{12}\) The impact of this record drop in commissions in 2013/13 will be felt in 2015/16 when fewer newly-qualified nurses will be entering the workforce.

Figure 3: England, number of nursing places commissioned (2003/4 to 2014/15)

\(^{10}\) [http://www.nursingtimes.net/nursing-practice/specialisms/management/most-hospital-trusts-have-raided-eu-for-nurses-in-past-four-years/5074986.article](http://www.nursingtimes.net/nursing-practice/specialisms/management/most-hospital-trusts-have-raided-eu-for-nurses-in-past-four-years/5074986.article)

The RCN is pleased that HEE and the Scottish Government have begun to increase commissions and we hope this trend continues going forward to help meet demand. However, this will only go a small way to address the current nurse shortage, and the places commissioned this year will still take another three years to enter the labour market.

The total number of applications to all UK higher education institutions has increased significantly since 2008, rising by 24 per cent between 2008 and 2013. Over the same period, the number of acceptances has risen by nine per cent.¹³

**Future changes**

Over the last year, following Robert Francis’s Mid Staffordshire Public Inquiry report, and subsequent reports from Sir Bruce Keogh and Professor Don Berwick, there has been a welcome spotlight shone on safe staffing levels, particularly in hospitals.

As the impact of understaffing on patient safety has become clear, many trusts have started to reverse earlier cuts and alter their plans. This has resulted in welcome

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investment in the nursing workforce in some, but by no means all, areas. The National Institute of Health and Care Excellence (NICE) are also in the process of rolling-out a programme of safe staffing guidance in England, which will set standards in staffing, and the nursing workforce will need to be readily available to meet the guidelines and ensure patient safety. According to the Health Secretary, Jeremy Hunt, trusts are misusing agency staff as a response to the new staffing levels required by Francis.

Although any investment in the nursing workforce is a positive development, the RCN is calling for this to be sustained in the long term, across all nursing settings. There is still some way to go in reversing past cuts, as expansion in the midwifery and health visiting workforces has masked the true decrease in registered nurses. According to the most recent data, at August 2014, the NHS was down 2,458 FTE registered nurses short of the position it was in back in April 2010\(^\text{14}\).

Changes to immigration rules have had a knock-on effect on nursing staffing levels. As of 6 April 2012, the immigration rules were amended by the Statement of Changes HC188 on 15 March 2012. These changes state that any nurse who entered the UK after 6 April 2011 will need to earn £35,000 to apply for indefinite leave to remain. This income threshold does not however apply to applicants who fall within the Shortage Occupation List.

Any nurse with a Tier 2 (general) visa who came to the UK after 6 April 2011 will need to be at least an upper band 7 nurse to earn this amount. It is highly unlikely that nurses coming to the UK will be in a position to earn this higher level salary within five or six years. This was recognised in the Impact Assessment conducted by the Home Office, *Impact Assessment: Changes to Tier 2 settlement rules*, 1 January 2012.

A tier 2 visa is initially granted for a period of three years. So long as the nurse is still needed in their position, an extension can be applied for – which may be granted for a maximum of 3 years. Under the previous immigration rules (Rule 245HF), there was no income threshold and a nurse simply needed to be paid the relevant salary for the position.

Under the new rules which are now in place it is key to note that a nurse may only remain in the UK for a maximum of 6 years if the high income threshold is not satisfied. After this time the nurse will need to leave the UK, as further leave cannot be obtained on the basis of employment.

The expected impact of the new income threshold is that there will be a shortage of nurses, as non EEA nurses are required to leave the UK after completing six years in the UK. The turnover of non EEA nurses will therefore be greater, and at considerable expense to the employer. A large shortage of nurses might therefore be predicted from April 2017; an impact assessment conducted by the Home Office in

2012 estimated that 48 per cent of tier 2 nurse migrants will not qualify for settlement. Even with this modest estimate, this would mean that potentially 500 non-EU nurses a year, with experience of working in the UK health system, will be affected once these rules apply. This is without including those who may decide to seek employment in other shortage countries where they have a greater possibility of settling permanently.

Despite these stricter immigration rules the RCN is aware that recruitment from non-EEA countries is continuing as employers are now finding it difficult to recruit from countries within the EEA. As an example – the Royal Surrey County Trust is currently recruiting for 113 nurses from the Philippines.

3. Is it sensible for immigrant labour from outside the EEA to be used to fill this shortage?

The RCN has long advocated for better workforce planning in the UK to move towards a more self-sufficient approach to training and retaining its nursing workforce and a move away from cyclical nursing shortages which have required large scale recruitment from outside the UK. There will always be some movement of nurses in and out of the UK, with individuals seeking new professional opportunities, whilst at the same time enriching the health system they contribute to.

However, the limited data available indicates that health services in the UK are currently reliant on nurses trained outside the UK and that this is likely to continue for the short term given the decisions made 2-3 years ago about UK education commissions and an ageing nursing workforce.

At the same time the continued use of agency staff and challenges with staffing levels indicate the need to recruit more nurses to deliver safe and quality patient care.

The figures also show that whilst the most significant increase has been in registrations from Eurozone countries with weak economies (Spain, Portugal, Ireland), mirrored by data on NHS employers’ intentions to recruit, these do not seem to be covering the demand. The figures also show that nurses are still registering from the Philippines and India and we know anecdotally that some employers are also recruiting from these countries.

It is unclear whether in countries such as Ireland, as the economy begins to recover, nurses will continue to wish to locate to and remain in the UK or whether this is a short-term alternative to being unemployed in their home country. During the last economic boom in Ireland a number of Irish trained nurses returned to their home country from the UK, according to figures reported for the years 1993 – 2003 by the Nursing and Midwifery Council.

15 The Nursing and Midwifery Council (January 2004) Statistical analysis of the register
The RCN believes that the Government’s current focus on recruitment from the EU is not sustainable. The European Commission’s 2012 report outlining an action plan for the EU health workforce projected a shortage of over half a million nurses in the EU by 2020 and an ageing health workforce across the EU.16

As the nursing workforce is put under pressure, it is imperative that there are the right numbers of nurses on duty to provide safe and high quality patient care – on every shift, every day, every night.

We therefore recommend that adult nursing, as the route into many nursing roles, is placed on the shortage occupations list for the short term, and kept under regular review, in the absence of comprehensive data on individual specialist nursing numbers and shortages.

**Further recommendations**

1. Employer level and national level data on changes to skill mix should be centrally recorded and available in the public domain to ensure that all stakeholders (including the RCN) are able to work in partnership with HEE and others to identify potential shortage areas. Those planning current and future supply, distribution, diversity, and demand for nurses are often frustrated by the lack of timely, robust, and comprehensive data on this area.

2. There needs to be a strategic level focus on vacancy rates within each NHSE area team with an analysis of the areas of nursing practice experiencing shortages together with a clear plan of actions for addressing the shortages identified

3. As part of the overall workforce planning process there needs to be consideration of the current NMC arrangements for reviewing applications for registrants and an assessment whether the delays are a factor in particular areas of nursing practice experiencing shortages

4. The RCN believes that there is a need to move to a more evidence-based and robust, long-term workforce planning process that more accurately assesses future demand and supply.

5. Requiring ESR data on vacancies to be included in HSCIC reports

**Royal College of Nursing, December 2014, international@rcn.org.uk**

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1 April 2002 to 31 March 2003