Nursing & Midwifery Council

The Nursing and Midwifery Council’s response to the Department for Business, Energy & Industrial Strategy’s Call for Evidence on the Recognition of Professional Qualifications and Regulation of Professions

About us

1 Our vision is safe, effective and kind nursing and midwifery that improves everyone’s health and wellbeing. As the professional regulator of more than 700,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

2 Our core role is to **regulate**. First, we promote high professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects less than one percent of professionals each year.

3 To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people’s careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we’re increasing our visibility so people feel engaged and empowered to shape our work.

4 Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

Summary

5 We welcome this call for evidence. Ensuring that our regulatory framework is fair, proportionate and welcoming to professionals from overseas is a critical priority. As of 31 March 2020, 115,701 people on our register were from overseas (16 percent of the total number). Our overseas registrants make a vital contribution to UK nursing and midwifery, both in terms of the expert care they provide and the diversity which they bring. This contribution has been all the more important over recent months as we continue to tackle the covid-19 pandemic.

6 We have a mandate to protect the public. This is set out in legislation, primarily the Nursing and Midwifery Order 2001, along with our core regulatory responsibilities and processes. Growing the workforce is the responsibility of the Department for Health & Social Care (DHSC), the devolved administrations and their public bodies. We support them by sharing data and intelligence, and by consulting them on changes to our systems.

7 In terms of how we assess and register professionals with international qualifications going forward, our strong preference is that our existing overseas registrations process be the single-point-of-entry for all international applicants to our register. Currently, it only applies to overseas applicants from outside the European Economic Area (EEA).

8 Our position reflects the fact that our existing overseas route, in particular our Test of Competence (ToC), is designed to test the knowledge, skills and attributes needed for nursing in the UK specifically. As these skills evolve and change, we can review and adapt the ToC to keep it aligned. It is also the most cost-effective and time-efficient method of assessment, and it is applied consistently, transparently, and equally to all applicants. This aligns with the Government's ambition to see an efficient and fair process for the recruitment of internationally trained health professionals.

9 Since 2016 we have undertaken considerable work, in collaboration with our stakeholders, to streamline our international registration process and improve the ToC. We are pleased that these changes have been broadly welcomed by the health and social care sector and we are committed to continuing this approach.

10 In our view, using a person's qualification as the primary criteria for registration will not offer a quicker entry point into the workforce compared to the ToC. Doing this would require that we assess each qualification against our standards, making it prohibitively expensive and complicated. It would also lack consistency in terms of its application and potentially leave us vulnerable to accusations of discrimination.

11 Finally, we have long stated that wholescale reform of our regulatory legislation is well overdue so that we can introduce true flexibility into our regulatory processes and requirements. Our new strategy has set out the direction we want to travel in order to become a modern and responsive regulator. We are pleased that the Government is now moving forward with its programme of change to the legislation of the healthcare regulators and we are working closely with the Department of Health and Social Care (DHSC) to inform their plans.

12 We recognise that as the transition period following the UK's departure from the EU comes to a close, planning for how future processes for professionals wishing to work in the UK is a priority for the Government. We would welcome further opportunities to discuss this area with officials as we approach the end of transition period.

13 As requested, we have only responded to annex C of this call for evidence.

Our response to the evidence questions

Question 1: Please tell us in which nation(s) you are a regulator of a profession.

14 Our regulatory remit is UK-wide and underpinned by statute, primarily the Nursing and Midwifery Order 2001. The Order provides the legal basis for the existence of the NMC, for the maintenance of the professional register for nurses, midwives across the UK, and for nursing associates in England. It also prescribes our core regulatory functions of setting and maintaining standards of education, training, conduct and performance.

Question 2: Please state the sector(s) you regulate within.

15 Health and social care.

Question 3: Please state the profession(s) you regulate.

16 Nurses and midwives in the UK and nursing associates in England.

Question 4: Please outline the rationale for regulation within your sector. In each instance, please explain their importance to regulation within your sector.

17 **Protect public safety for health reasons:** We maintain the register of nurses and midwives who meet the requirements for registration in the UK, and nursing associates who meet the requirements for registration in England. To do this we undertake several key functions, all of which are underpinned by legislation:

17.1 We hold the professional register which is our primary tool of public protection. It assures the public that the 716,607 nurses, midwives and nursing associates registered with us have met our professional standards and continue to do so throughout their careers;

17.2 We also set the standards for professional education. These support people to develop the knowledge, skills and behaviours required for entry to, or annotation on, our register. It also ensures that those seeking to join our register are equipped, trained and supported to provide care that is safe, highly skilled and compassionate;

17.3 We are also responsible for ensuring that people who trained outside the UK who wish to join our register are able to evidence a level of knowledge, skills and competencies equivalent to those who have been educated/trained in the UK, in addition to ensuring that they have suitable English language skills;

17.4 We also set the standards for continuing professional development once someone joins our register and the process by which they must maintain their registration with us. This process is known as revalidation and is designed to ensure that registrants continue to keep their skills and competencies up-to-date. This applies irrespective of where they work; and

17.5 Where serious concerns are raised about a nurse, midwife or nursing associate's fitness to practise, we can investigate and, if needed, take action.

18 **Provides training:** A core part of our regulatory responsibility is to set the standards of education, training, conduct and performance required in order to become a nurse, midwife or nursing associate. This is vital for ensuring that those who enter our register are consistently educated to a high standard, and that they are able to deliver safe and effective care – both at the point of entry to the register, and throughout their careers. This also forms an important part of our effort to show patients, people who use services and the public what nurses, midwives and nursing associates know and are competent to do.

19 Specifically, our role encompasses:

19.1 Setting education standards. These shape the content and design of programmes and state the competences of a nurse, midwife or nursing associate;

19.2 Approving education institutions and their programmes. We also maintain a database of approved programmes (courses);

19.3 Delivering quality assurance of our approved programmes;

19.4 Registering nurses, midwives and nursing associates once they have successfully completed their courses; and

19.5 Assessing and ensuring the quality of practice placements for students.

20 We do not:

20.1 Educate or select students. This is undertaken by approved education institutions (AEIs) and practice partners in line with our standards;

20.2 Set the curricula as this is the role of AEIs and practice partners in line with our standards. We also do not regulate students. If there are concerns about a student, this is dealt with by the AEI;

20.3 Assess the ability of practice settings to support students' learning. This is undertaken by AEIs; and

20.4 We do not assess the quality of care in hospitals or the community. This includes nursing homes and other settings where our registrants may provide care. This is the responsibility of other regulators including the Care Quality Commission in England, Healthcare Improvement Scotland, Care Inspectorate Scotland, Healthcare Inspectorate Wales, Care Inspectorate Wales and Northern Ireland's Regulation and Quality Improvement Authority. We do however work closely with the systems regulators in a number of ways, including through the sharing of data and intelligence.

Question 5: Please outline any evidence you have on the consumer protection impacts provided by your regulations.

21 Our standards and requirements ensure that the professionals on our register hold the skills, competencies and values necessary to deliver safe and compassionate care across all health and care settings. This begins from the point of study through our education standards. Once a person obtains their qualification they are then required to evidence to us how they are upholding the professional code and our practice standards through a process called revalidation. This emphasises the importance of continuous learning and professional reflection throughout a person's career for maintaining safe and effective practice. We have provided more information on this process under question 23.

22 Our registration standards are met by UK-trained graduates through completion of one our approved training programmes. They are also met by professionals who

register with us from overseas because they go through the ToC which assesses applicants against the same standards. As a result, we have sufficient assurance that these people are fit and suitable to register with us. We are not able to exercise the same level of assurance over people looking to join us from the EEA. This is covered in more detail in question 6.

23 By setting a high standard of competency and skill, our regulations enhance the safety and quality of care which people receive. This approach has not inhibited the growth of the workforce. Between March 2016 and March 2020, the total number of professionals on our register grew by 24,051. Between 2016-17 and 2019-20, the number of UK-trained people leaving the register declined by 8,128 (from 29,434 to 21,306), while the number of UK-trained people joining the register for the first time grew by 5,141 (from 20,240 to 25,381). We are pleased that the numbers of people on our register are growing as this benefits the health and wellbeing of communities across the UK.

24 Our response to the Covid-19 pandemic reinforces this point. In March 2020 we established temporary registration for those who wished to re-join our register to support the UK's response to the pandemic. For anyone applying to hold temporary registration, we assess whether they are, or may reasonably be considered to be, fit, proper and suitably experienced in line with our policy and the Code. Since 31 March, the numbers holding temporary registration have grown significantly, reaching a height of more than 14,000 in July.

Question 6: Please outline your process(es) of recognising someone with an international qualification. In your answer, please include details of how this differs from the process of recognising a domestic applicant, the rationale for this/ the reasons why this is the case, and the costs of administering this route. If you have different processes for different international routes (e.g. for candidates from the EU, USA, Australia, or due to any Mutual Recognition Agreements you hold), please include details on the differences between them.

25 Our governing legislation, the Nursing and Midwifery Order 2001 and the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 (SI 2004/1767), lay out the different processes by which UK trained and non-UK trained applicants can join our register. Changes or amendments to such provisions must be made by Parliament.

Our process for recognising UK applicants

26 The NMC Order sets out our power to set education standards, which shape the content and design of programmes delivered in the United Kingdom. As part of our regulatory function, we also approve education institutions and programmes in the UK and we maintain a database of approved programmes available on our website. We also deliver quality assurance of our approved programmes and assess and ensure the quality of practice placements for students (see section 18).

27 Once a nurse, midwife or nursing associate student successfully completes one of our approved courses, and we have confirmed that they meet our health and character requirements, received confirmation they have in place an appropriate identity arrangement and they have paid the registration fee, they will be admitted

to our register. By successfully completing an NMC approved programme, applicants trained in the UK are considered to have met our English language requirements.

Our process for recognising overseas applicants from the EEA

28 Movement of professionals in the EEA is governed by Directive 2005/36/EC 'on the recognition of qualifications' ("the Directive).[1] The Directive is composed of two overarching regimes for the movement of professionals. These are:

28.1 **Establishment** – where an EEA trained nurse or midwife wishes to move to the UK to take up long term or permanent work; and

28.2 **Temporary and occasional provision of services** – where a nurse or midwife wishes to come and practice in the UK for a short period of time.

29 The overwhelming majority of applicants who enter the NMC register do so via the establishment regime. Applications via the temporary route are low. We currently have only one person in this category.

30 Sitting beneath these recognition regimes are four differing registration procedures. The regulatory checks that can be applied in each of these differ greatly. More information on these routes can be found in our guidance.

Our process for recognising overseas applicants from the EEA: Automatic recognition based on minimum training requirements

31 The overwhelming majority of applicants who enter the register do so via the establishment automatic recognition process. For the year ending September 2020, 89 percent (1,094 out of 1,226) of applicants registered followed this route. This route only applies to nurses responsible for general care (adult nurses) and midwives and is based on EU-wide minimum training requirements that the UK also has to adhere to.

32 If an incoming applicant started training after the date that this was established for general nursing (29 June 1979) or midwifery (23 January 1983), or after the date that their country joined the EU, they will meet the requirements for automatic recognition of their qualification under article 13(1)(b) of the Order.

Our process for recognising overseas applicants from the EEA: Acquired rights

33 This system allows EU states to automatically recognise registered nurses responsible for general care and midwives in an EU member state. They should have practised for three consecutive years out of the last five and must satisfy the criteria outlined in Article 33 and 43 of the Directive.

[1] The provisions of the Directive are transposed directly into NMC legislation including the Nursing and Midwifery Order, the Registration Rules, and the European Qualifications Designation Order, all of which can be found on the NMC website: https://www.nmc.org.uk/about-us/our-legal-framework/our-order-and-rules/

34 Applicants coming through this route will need to supply evidence of their qualification. This must be certified by their registering body or competent authority if that qualification was awarded before 29 June 1979, or before their country became a member of the EU or the EEA. We also require a certificate from them confirming that an applicant has been practising as a nurse or midwife for three years out of the five years before the certificate was issued, quoting Article 23 of the Directive.

35 Applicants from Croatia, Romania and Poland are subject to slightly different acquired rights depending on the specific qualification they hold, and when their country joined the EU. These are set out in the Directive.

Our process for recognising overseas applicants from the EEA: General system for the recognition of qualifications

36 The ‘general system’ applies to general nurses, midwives and nursing associates who do not meet the requirements for automatic recognition or those for acquired rights. It also applies to all children’s, mental health, learning disabilities, and to specialist community public health nurses. For the year ending September 2020, only 116 of 1,226 EU applicants registered through this route.

37 The general system allows the NMC to consider applications in more detail than the other routes. Where shortfalls between the applicant’s training and the UK training requirements are highlighted, the applicant can make up those shortfalls through a compensation measure. A compensation measure is either a period of adaptation or an aptitude test. Both of these measures are costly and limited in terms of availability and, in the case of adaptation programmes, may be time consuming. Where we have identified any shortfalls in an applicant’s training and education we will send them a letter authorising them to access a compensation measure. They are free to choose which measure they prefer to undertake to address the shortfalls identified.

38 Adaptation programmes are only available at the University of West England. Applicants submit an application directly to the university who will provide an appropriate programme to address the shortfalls in the applicant’s training and education.

39 Aptitude tests are only available at the University of Northampton. Applicants apply directly to the university, which will then consider the shortfall in the applicant’s training and provide an appropriate test. The aptitude test follows a similar structure to the overseas ToC.

40 Over the last three years, one percent of general system applicants were required to complete a compensation measure with 29 applicants completing an adaptation programme and 10 taking the aptitude test. Where they have only one area missing in their training applicants can opt to undertake the required practice in that area in their country of training; eight general systems applicants in the past three years have taken this option.

Our process for recognising overseas applicants from the EEA: The European professional card

41 The European Professional Card (EPC) was introduced in 2016 for the recognition of general nurses.[2] It can be used for both establishment and temporary and occasional purposes and is an alternative method of application to the traditional 'paper' route. We have stated publicly on a number of occasions that we have concerns about the EPC, especially in relation to the delegating of our regulatory controls (in relation to certification of documentation) to other EU regulators. These concerns are amplified for temporary and occasional recognition via the EPC, as this route combines the two regimes for which we have raised concerns about dilution of our regulatory checks.

Our process for recognising overseas applicants from outside the EEA

42 The legal basis for how we assess overseas applications is set out in Article 13 of the NMC Order. This requires that we look at a person's qualification in order to assess whether it meets our requirements. If it does, then the applicant is eligible for registration (subject to meeting all our other requirements). If it does not, then the applicant is required to sit a test of competence. We refer to this process as 'qualification comparability'.

43 We have explained our position on this matter in more detail under question 8. In summary, we are currently unable to undertake qualification comparability. This is because we have assessed the resource implications for developing such a route to be excessive, and the logistical challenges of making it globally available highly impractical. Having undertaken work on this area already, we have yet to identify an overseas qualification that could be considered comparable to ours. We also do not believe that it could be applied consistently to all applicants, thereby raising the risk of challenges around discriminatory practice.

44 As a result, all applicants trained overseas must complete our overseas Test of Competence (ToC) in order to join the register. This is formed of two parts: a multiple-choice computer based theoretical test, known as the Computer Based Test (CBT), and a practical test known as the Objective Structured Clinical Examination (OSCE). The test content is mapped against our pre-registration proficiency standards.

45 Successful completion of the ToC provides assurance that the applicant meets the standards of proficiency which we have set for admission to the relevant part of the register they are applying to, and that they have the right skills and knowledge to practise safely and to provide safe care in the UK. Applicants will also be asked to provide information in relation to their training and, where applicable, their professional registration with their home regulator as part of their application to demonstrate this.

46 For nursing, the eligibility criterion is that they hold a qualification capable of leading to registration as the equivalent of a UK Level 1 nurse in the country in which they trained. This means that they have completed a programme of education which has led to an academic nursing qualification. Similarly, for midwifery, the applicant must hold a qualification leading to registration as a midwife in their country of training. For nursing associates, the applicant must hold

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[2] Along with pharmacists, physiotherapists and mountain guides, general nurses formed phase 1 of the EPC roll out

a qualification that is in nursing which is at an academic level equivalent to a foundation level degree.

47 Overseas applicants will also need to meet our health, character and English language requirements, pay the required fees and confirm they have the appropriate indemnity in place. Once they have demonstrated this they will be admitted to our register.

Question 7: Please outline any additional steps and their resource implications that you face in processing applicants with international qualifications.

48 Test design, quality assurance and contract management of the ToC, as well as our ToC delivery partners, sit separately from our education approval processes for programmes delivered in the UK. We currently have concession contracts with one CBT delivery partner and three OSCE delivery partners. There are standard contracts in place with one ToC design partner and one quality assurance partner. This work is supported by a senior manager, contract manager and three senior contract officers. All are full time roles, 36 hours per week.

49 In addition, we carry out document verification checks as part of our overseas application registration process which is a key part of our assurance framework. This is supported by a team of six verification officers, all of whom are employed full-time (36 hours per week). The responsibility for such checks for those training in the UK sits with the approved education institution.

50 The approximate direct cost of maintaining and managing the overseas ToC is £500,000 per year. This includes internal administration and staffing costs (described above), as well as other overheads. The approximate cost of administering our EEA registration route is £130,000 per year. This difference is driven by a number of factors, such as significantly higher levels of recruitment from countries outside of the EEA. In 2019-20, 12,033 new joiners came from outside the EEA, compared to 913 from within the EEA.

51 It also reflects the fact that overseas registration includes physical verification of each applicant's original supporting documentation. This process doesn't happen for EEA applicants because the Directive doesn't allow us to unless there's good reason to suspect there might be something wrong with an application.

52 Finally, the running costs for the ToC include contracts for the design, development, implementation and quality assurance of the test. In order to ensure appropriate rigour and impartiality, the design, development and operation of the test are separated out.

Question 8: With reference to any of the additional steps outlined above, what would you suggest are the priorities for the UK Government in considering future ways to recognise international qualifications? Please include any details on what an ideal system could look like, as well as how it could operate. Please consider what the priorities would be for the profession you regulate.

53 Our key priority for the UK Government is that they allow regulators to be flexible, and to design systems which are not burdensome, both for applicants and the regulator. In our case, this means protecting the public first and foremost, while

working with relevant bodies to support growth of the UK's nursing and midwifery workforce.

54 We have identified three options which, we believe, will give us this flexibility and enable us to both maximise entry to the register without compromising our commitment to public safety. In order of preference, these are:

54.1 **Power to apply the ToC:** Our preferred model would be to assess all international applicants via our existing overseas ToC. This currently applies to all overseas applicants from outside the European Economic Area (EEA). Once the UK-EU transition period ends, we would strongly recommend that this route to apply to EEA applicants as well. Our view is that having the ToC as the primary, single-point-of-entry for all international applicants to our register aligns with the Government's desire to see an efficient, clear and fair process for the recruitment and registration of internationally trained healthcare professionals.

54.2 This position is rooted in the fact that the ToC is designed to test the knowledge, skills and attributes needed for nursing in the UK specifically. It is the most cost-effective and time-efficient method of assessment and it is consistent, transparent, and applied equally to all applicants.

54.3 Since 2016 we have undertaken considerable work to improve the ToC. This includes reducing the cost for taking it by 20 percent in 2019, developing more targeted guidance and information both for test-takers and those supporting them, as well as significantly reducing applicant journey times to an average of 99 days. Previously, the process could take up to two years.

54.4 These changes have facilitated a significant rise in the number of international joiners to our register. Between 2018–2019 and 2019–2020 the number of people from overseas joining our register for the first-time grew by 95 percent. Seeking external input in designing many of these changes has helped ensure that our new process has been broadly welcomed.

54.5 Going forward, we are committed to doing as much as we can to continue streamlining this route so that it is as user-friendly as possible, without compromising our standards. At present, we are working in partnership with test design experts to develop a revamped ToC to ensure that it reflects our new standards for nurses and standards for midwives. This will go live in April 2021 and we will be working closely with stakeholders in the lead up to the launch to ensure that those supporting overseas applicants and those returning to the register are properly prepared for the change.

54.6 **Overseas quality assurance:** We are exploring the feasibility of approving tests conducted outside the UK, and charging for approving such tests. This would mean that applicants who successfully complete such a programme would meet our requirements without the need for a Test of Competence.

54.7 **Qualification recognition/comparability for limited situations:** Our preference is to retain this as an option for use on a narrow basis - for example where two countries agree to continue to use and apply the same standards as part of a government-to-government trade deal. Below we set out some of the current barriers to qualification comparability that prevent it from being a credible option as the primary route to the register for overseas applicants.

55 For the vast majority of international applications, the possession of a relevant international qualification provides only a snap-shot view of a person's skills at a retrospective point in time, at the point they qualified. On its own, it does not provide sufficient assurance that they are suitable to practise in the present.

56 This reflects the fact that the skills-sets of nurses, midwives and nursing associates are constantly evolving. This is driven by innovation within the professions themselves, and as a response to shifting expectations from the public and the other health professionals with whom nurses, midwives and nursing associates closely work. UK graduates are able to demonstrate these skills because they are assessed in practice placements, not just in clinical theory. In order to get the same assurance from international graduates, we would need to see their skills tested in practical settings.

57 Having considered this model through some recent work that we have undertaken, we have yet to find an overseas qualification which is strongly comparable to ours. This immediately raises a critical question as to what the threshold of 'comparable' should be and what level of risk that gap would present to patient and public safety. There is also significant variability in the quality of documentation available from overseas institutions to enable assessment of comparability, and it has proven difficult to find detailed documentation to give us assurance around the patient safety proficiencies.

58 We would also point out the considerable logistical challenges of making any qualification recognition avenue available globally. This not only includes the number of countries which it would need to cover, the fact that countries regularly change their standards, but also the huge variety of nursing qualifications and regulatory systems within many countries (i.e. state/province level/age of qualification/standard qualification obtained at that time). It would be difficult to restrict qualification comparability without risking accusations of discrimination or bias which could leave us open to challenge and legal proceedings.

59 It is important to point out that considering qualification comparability is not simply a matter of assessing a training transcript and ticking-off the different modules against what we would expect to be included in a UK programme. There are three areas which we need to consider to come to a viewpoint as to whether a qualification was comparable to one awarded within the UK. These are:

59.1 Assessing the rigour of the regulatory framework within which the professional operates in their home country, for example if they are required to undertake continuing professional development or revalidation, and if they are required to abide by a professional code;

59.2 Ensuring that educational standards are clear and are robustly applied, for example in relation to teaching, assessment and quality assurance; and

59.3 Mapping the content and outcomes of the qualification to the proficiencies within the NMC's standards for pre-registration education.

60 Our initial work indicates that putting a qualification comparability process in place for our overseas registration process would be very resource intensive whilst leading to an outcome where very few if any qualifications would meet our new standards. It is almost certainly the case that such an exercise could not be carried out by the NMC and we would need to contract with others or outsource this process. This could involve significant cost which would likely mean that the overseas application fees would have to increase.

61 It would also undermine three of the overarching principles set out by DHSC in their regulatory reform programme which we support. These are that:

61.1 Regulators should have greater autonomy to set out their own operating processes and procedures;
61.2 Regulators should be given broadly equivalent powers to maintain a level of consistency; and
61.3 Public safety should remain paramount and at the heart of professional regulation.

62 However, as we set out in paragraph 54.7, there may be very limited and specific circumstances where recognition of international qualifications could work, such as a country-to-country trade agreement. Even here though, such a route would be resource-intensive and highly unlikely to help international recruitment. It would also require that we have sufficient flexibility to set and adapt our operational processes, which we do not currently have. This forms a significant part of our discussions with DHSC on international registrations as part of our regulatory reform work.

Question 9: Do you require legislation to give you powers to make changes to your international recognition routes?

63 The routes onto our register are currently set out in articles 13 and 14 of the Order. Article 13 lists the circumstances in which we consider an individual to have an approved qualification for the purposes of registration, including by taking extra measures to assure us (such as the ToC or further training). Article 13 applies to UK, English (in the case of nursing associates), EU and international routes. Article 14 is specific to EEA qualifications.

64 In order to make amendments to these provisions, we need to seek legislative change through a section 60 Order under the Health Act 1999.

65 More detailed requirements surrounding our registration processes are outlined in our rules. However, currently the process of amending these rules requires Privy Council approval and Parliamentary time.

66 We are working with DHSC to bring forward a programme of regulatory reform to modernise our legislation and provide us with more flexibility. This includes

consideration of registration processes, including international registration. We think that it is vital that the Government commits to this programme.

67 Our new strategy has set out the direction that we want to travel in order to become a modern and responsive regulator, and it is clear that we need regulatory reform to deliver this. Because we have been advocating for change for some years, we already have a clear picture of some of what we want, and of the general principles that we would like to see applied across the piece. However, reform of our legislative framework is a significant piece of work that will have an impact across all of our regulatory functions, and is likely to take some time to complete.

Question 10: What level of dialogue do you maintain with your international counterparts? Please outline the benefits and challenges to cooperation. Please also outline if you are a member of any international networks of regulators, what they are and your experience with them.

68 We maintain close links with our international partners, both through bilateral collaboration with individual regulators on specific issues, and through our primary multilateral network called the International Nurse Regulatory Collaborative (INRC). The INRC meets formally once a year with regular communications and updates. In addition to our representing the UK, the INRC brings together eight national and state/provincial-level regulators from Australia, Canada, Ireland, New Zealand, Singapore and Spain.

69 We view the INRC as an effective vehicle for sharing intelligence and for undertaking bespoke research which offers value to its members. Currently, we are looking at whether we can develop a common terminology to describe our respective regulatory systems and processes. While this might offer opportunities to potentially streamline our systems and improve the mobility of professionals, this work has shown that our respective approaches are very different.

70 We also work closely with our internationally-focused counterparts in nine other UK health regulators. This is done through an umbrella network called the Alliance of UK Health Regulators on Europe (AURE). This network focuses on sharing innovative practice, while also facilitating important discussions for how we ensure a smooth change in our EU registrations and assessment processes in advance of the UK-EU transition ending.

71 In addition to this, our international registration teams maintain a list of overseas regulators and key signatories which is predominately used to request or receive information about an applicant’s or registrant’s character if they are applying for registration with us, or if they are applying for registration outside of the UK. We ensure that key developments or changes in our registration process are communicated to this list and we receive reciprocal updates from some of our international counterparts.

72 The benefits to these relationships are that we can receive timely information in regards to an applicant’s character or training to enable us to consider their application, and we have key contacts should we need to make any further investigations. It would be fair to say that there are challenges, however, in that there are varying degrees of response rate and cooperation within this group.

Time difference and language barriers present a challenge, as does varying degrees of infrastructure in different countries which can affect the reliability of electronic contact.

Question 11: What are your priorities for supporting UK professionals on your register to have access to their profession in other countries? Please outline any Government support that would help.

73 For UK-trained professionals seeking to work overseas, we currently provide detailed advice on the key steps they need to undertake in order to register in that country. We also set out the information we can provide to the relevant licensing body, and what the person applying needs to do in order to request this from us.

74 We welcome the opportunities for UK trained professionals on our register to have access to their profession overseas. We believe that our role is to facilitate professional mobility by having appropriate information-sharing agreements in place. This is where Government support would be valued. The current IMI system in place is a valuable and vital tool in supporting UK professionals' access to their professions overseas and we would be keen to see similar systems in place in the future.

75 We are also working closely with our partner regulators in specific jurisdictions to see how we might streamline our processes and improve the quality of information on offer to our respective registrants. This forms a key workstream of the INRC which we have detailed in our answer to question 10.

Question 12: Do you have any provisions for the recognition of professional qualifications held by refugees residing in the UK? If yes, please detail what these are and why you have implemented these provisions. If no, please detail why not.

76 We do not have specific standalone provisions for the recognition of qualifications held by refugees residing in the UK. Refugee applicants follow the same process as outlined previously and need to be able to meet our qualification, health, character and language requirements.

77 Our experience is that refugee applicants are able to meet these requirements, but it may be a challenge for us to verify their information via our usual process so as not to put the applicant at unnecessary risk. For example, we would usually verify their professional registration direct with their home regulator but in some cases it may not be safe for us to contact the regulator and let it be known that the applicant is currently in the UK. Such cases will be reviewed by an Assistant Registrar who will review the applicant's application and any mitigating evidence before deciding whether they meet our registration requirements.

Question 13: Please describe the process by which UK professionals gain qualifications to enter the profession, including detail on the types of education and training they must undergo and how long it takes to complete them.

78 UK professionals can join our register as a nurse or midwife having completed an approved nursing or midwifery degree (typically three years for a traditional taught programme, four years for a degree apprenticeship route, and two years on a postgraduate entry programme). In England a nursing associate can join our

register having completed a nursing associate foundation degree (typically 18 months to two years as either a taught programme or apprenticeship route). People who have undertaken comparable training in Scotland, Wales and Northern Ireland who want to become a nursing associate in England have a route through article 13(1)(dd), which is similar to the overseas route.

79 Training is either delivered by an AEI or, for nursing associates, this can be delivered by a body which has foundation degree awarding powers. Training is split between theoretical learning and practice learning.

Question 14: Please describe the process you offer for professionals who have gained the relevant UK qualifications to be brought onto your register.

80 Where a student has successfully completed their programmes and have met our requirements, then their education institution will upload them to our register. The institution must also sign a declaration to confirm that the applicant is of good health and character. We will then invite the student to complete their registration application with us online.

Question 15: How often do you review your processes and standards? In your answer, please describe both formal and informal ways this is carried out (e.g. via consultancy, membership surveys) and include detail of any changes you have recently made based to this process.

81 Since 2016 we have undertaken a comprehensive programme of work to review all our education standards and our quality assurance processes. A few recent examples include:

81.1 The introduction of a new framework for education, which includes a new approach for student supervision and assessment (2018);

81.2 New standards for prescribing programmes (2018);

81.3 The development of proficiency standards for the new Nursing Associate role in England (2018).

81.4 New return to practice standards which help people remain on, and re-join, our register (2019); and,

81.5 Redefined pre-registration standards of proficiency for both nursing and midwifery (2019);

82 We are now in the process of reviewing our post-registration standards.

83 We are also reviewing our standards development methodology. Part of this review is to formalise the timeline for carrying out full reviews of our standards, as well as to enable a more dynamic approach to updating our standards should anything trigger the need.

84 When we update our standards, we do this through a method of co-production with the sector, ensuring that both the professions and the public are involved. More recently this has involved external oversight groups, and expert advisory groups working closely with our staff. As part of the development of our standards we

have a formal duty to consult on any proposals – we consult both with the professions, but also the wider public including use of easy read versions too.

85 Process and systems are subject to continuous improvement to reflect organisational learning and best practice. In addition, the NMC is currently part way through a major IT refresh which has also prompted processes and systems to be reviewed and updated to improve the customer journey and ensure we are person-centred.

Question 16: Thinking about key changes that have been made to your qualification processes, what have been the cause for this change?

86 Changes to our processes can arise from a number of scenarios. In January 2019 for example we began regulating Nursing Associates, a new role which applies only in England. This involved identifying and defining the standards and qualification criteria for this professional group.

87 Legislative change is also a trigger for a review of our processes. Brexit and the impact on EU Directives which affect the professions we regulate is a good example of where changes in legislation will affect us.

88 In the short to medium term, the most significant change factor will be our regulatory reform programme. Our legislative model is outdated and overly prescriptive, and we are working closely with DHSC to remedy this.

89 While we have not yet achieved fundamental legislative reform, we have still undertaken significant regulatory development and improvement work. These include:

89.1 The launch of the NMC Strategy 2020-2025 which sets out our ambitious vision for how we want to regulate in the next five years;

89.2 Implementing our new fitness to practise strategy and approach which seeks to enable professionalism by encouraging an open, learning culture and support earlier addressing of concerns;

89.3 Updating our standards of proficiency for nurses and midwives;

89.4 The introduction of revalidation which encourages continuing professional development and reflective practice. This is now playing a key role in embedding professionalism for nurses, midwives and nursing associates; and

89.5 Reviewing our overseas registration process, resulting in a more streamlined and cost-efficient system.

Question 17: Do you feel that the current standards you set, against which applicants are assessed to enter onto the register, are a fair reflection of the level of skill, training, education, and experience required to practise their profession? Please explain your answer.

90 Yes. As we set out in our answer to question 15, we recently undertook a full review of all of our standards to ensure that they are an appropriate and fair

reflection of the level of skill, training, education and experience required to practise their profession. We are now undertaking a comprehensive review of our post-registration standards with particular focus on health visiting, school nursing and occupational health nursing fields of practice.

Question 18: Please detail any principles of regulation you follow (e.g. proportionality and transparency) and how you uphold them, and whether they support you in your duties as a regulator.

91 All of our regulatory activities follow the Public Standard's Authority's (PSA's) Standards of Good Regulation. We are reviewed against these annually. These require that we demonstrate that the way we regulate is proportionate, consistent, targeted, transparent, accountable and agile.

92 Our approach to regulation is also set out in our 2020-2025 Strategy. This commits us to regulate in the public interest through sustained and meaningful public engagement and empowerment. It also sets out how we support the professionals on our register by providing useful guidance, in collaboration with employers and educators, thereby helping to ensure that our professions uphold our high professional standards in practice. Finally, it expands on how we share intelligence from our work, and collaborate with partners to address mutual concerns in order to positively influence the context for learning and care.

93 We are also committed to being more transparent in what we do. This is most clearly evidenced by the numerous reports and accounts we publish which show the key decisions we are making and how these are made. All strategically significant issues, including changes to our processes and standards, undergo consultation with stakeholders and are discussed by our Executive Board and our governing Council. Council meetings take place six times a year and are open to the public. The issues which Council discuss and the decisions they reach are also publicly available on our website.

Question 19: Please detail any requirements you may place on the professionals you regulate and why they are necessary. If you do not impose any requirements, please justify your reasons for not doing so.

94 The Code presents the professional standard that nurses, midwives and nursing associates must uphold in order to be registered to practise in the UK. When joining our register, and then renewing their registration, nurses, midwives and nursing associates commit to upholding these standards.

95 This commitment to professional standards is fundamental to being part of a profession. We can take action if those on our register fail to uphold the Code. In serious cases, this can include removing them from the register. The Code was developed in collaboration with many stakeholders who care about good nursing and midwifery. It is structured around four themes – prioritise people, practise effectively, preserve safety and promote professionalism and trust.

96 In addition, our registrants must revalidate every three years to maintain their registration. When revalidating, registrants are encouraged to reflect on the role of the Code in their practice and they are asked to demonstrate they are following the standards set out within it and are therefore capable of safe and effective care.

Revalidation also helps encourage a culture of sharing, reflection and improvement on an ongoing basis throughout the registrant's career. More information on our revalidation process is provided under question 23.

Question 20: Please describe the process by which you determine your application fees. Please set out any principles or guidelines you adhere to when determining fee amounts.

97 The payment of a registration fee is a requirement for registration within our legislation (Art 9(2)(c) Nursing and Midwifery Order 2001). The Order also requires us to make rules in connection with the payment of fees, and the level of fees are prescribed Rules made by Council.

98 The level of fees charged to applicants to our register is set out within the Nursing and Midwifery Council (Fees) Rule 2004 ('the Fees Rules'). We set out the fees to be paid in support of an application, an evaluation, or retention for different classes of people, including applicants from the UK and EU, overseas applicants, and those applying for renewal and readmission (Rule 3 of the Fees Rules).

99 In order to change our fees, we must seek an amendment to the Fees Rules. Article 47(3) of the Order requires us to consult representatives of any group of persons who appear to be likely to be affected by the proposed rule changes. This may include representatives of:

99.1 Registrants or classes of registrants;
99.2 Employers of registrants;
99.3 Users of the services of registrants; and
99.4 Persons providing, assessing or funding education and training for registrants and prospective registrants.

100 We will therefore typically go out for consultation with key stakeholders including registrants and their representatives before changing our fee structures.

101 Our current financial strategy commits us to maintaining the current registration fee at £120 for as long as possible. As we are funded entirely by the fees paid to us by those on our register, it is vitally important that we are able to design and review our processes so that we can deliver our public protection remit while minimising the cost burden to those on our register.

Question 21: Please detail any changes that you are considering for your sector to ensure the profession you regulate stays relevant to current challenges. Does current regulation allow for you to make these changes?

102 Throughout 2019 and 2020 we have been working in partnership with AlphaPlus to develop a new Test of Competence that reflects our new standards for nurses and standards for midwives. The new ToC will go live in April 2021 and we will be working closely with stakeholders in the lead up to the launch to ensure those supporting overseas applicants and those returning to the register are properly prepared for the change.

103 We are also looking at how we can encourage those who have obtained temporary registration during the Covid-19 pandemic to move onto the permanent

register. This aligns with our commitment to continue to support the growth of the nursing and midwifery workforce, especially as we move towards winter. Our analysis has identified a few key opportunities for this, including that nearly half of the returning professionals would consider re-joining our permanent register.

104 We are also scoping a review of our post-registration standards for nurses and midwives. This will include developing new standards of proficiency for three fields of Specialist Community Public Health Nursing (SCPHN): school nurses, occupational health nurses and health visitors.

105 We are also continuing to work with DHSC on a programme of reform to our legislation to enable us to be more responsive in the way we regulate going forward. We have been clear that our current legislation is overly prescriptive and a barrier to our becoming a more dynamic leading regulator. We will however continue to improve our systems and processes on the basis of clear evidence and in collaboration with our stakeholders.

Question 22: Please detail any steps you take to help make sure that your standards and processes are adaptive, support innovation and promote social mobility?

106 Our new standards have been user tested to ensure they are inclusive, accessible, measurable and assessable. Our Future Nurse, Future Midwife and Nursing Associate standards ensure that care is respectful and inclusive and that new professionals abide by the professional Code - this includes challenging discriminatory behaviour whenever it occurs and advocating for those who may be vulnerable. Our education and training standards require AEIs and practice placement partners to be inclusive in their recruitment and admission policies in line with QAA Quality Codes and our standards.

107 As described in question 16, we have also committed to improving our approach to overseas registration and commenced a wide scale review of our process in 2017, culminating in the launch of a new quicker and more accessible application process for our applicants in October 2019. As part of this review we spent a lot of time collecting feedback from our applicants and stakeholders on the challenges of our process in place at the time and what improvements they would like to see.

108 Our new process offers a more efficient and streamlined experience, and ensures qualified overseas nurses, midwives and nursing associates can get into practice where they are needed in the UK. We launched a new online system, removing our old paper-based process which allow applicants and those supporting them to track their progress. We also streamlined our registration requirements and reduced the cost of the test of competence. In addition, we launched redesigned website pages with clear guidance and a new pre-application checklist tool for applicants.

Question 23: Please detail any continuous professional development that is required for professionals to remain on your register. Please include detail on how often this should take place, in what form, as well as the benefits of adhering and consequences of not adhering to these requirements.

109 Every three years from the date on which they join, everyone on our register must meet a set of requirements indicating that they are capable of safe and effective

practice to renew their registration and stay on our register. This process is called revalidation and can be separated into two overarching parts:

109.1 Paying the annual registration fee (currently £120); and

109.2 Confirming that they have met a set of continuing professional development (CPD) requirements, undertaken a minimum number of practice hours and have reflected on their practice.

110 If they do not meet these requirements their registration will lapse and they will no longer be able to practise as a registered nurse or midwife in the UK, or nursing associate in England.

111 The purpose of revalidation is:

111.1 To raise awareness of our Code and professional standards;
111.2 To provide opportunities to reflect on the role of the Code in practice;
111.3 To encourage registrants to stay up-to-date in their professional practice;
111.4 To encourage a culture of sharing, reflection and improvement;
111.5 To reduce professional isolation; and
111.6 To strengthen public confidence in the nursing and midwifery professions.

112 The revalidation requirements are:

112.1 450 practice hours per registration;
112.2 35 hours of CPD, of which 20 hours must be participatory. Examples of participatory learning can include attending a conference, taking part in a workshop or attending a relevant training course;
112.3 Five pieces of feedback. These can be written or verbal, formal or informal. It may come from patients and people who use services, colleagues and management. It can also include feedback from team performance reports or their annual appraisal;
112.4 Five written reflective accounts. These may refer to a piece of CPD undertaken, feedback which they have received and/or an event in their professional practice;
112.5 A reflective discussion with another person on our register;
112.6 Confirmation discussion with a suitable person covering the above requirements; and
112.7 Declarations as to ongoing health and character, and professional indemnity arrangements.

113 In order to renew, registrants must complete an online application confirming that they have met these requirements. Every month we select a proportion of applicants to verify the details they have provided in their application.

Question 24: Do you collect data on the diversity of both your UK and international applications? For example, on gender or ethnic background.

114 We collect data covering the gender, ethnicity, religious beliefs, sexual orientation, disability and age of the people on our register. Significant portions of this data is published in our annual report and accounts, as well as our register reports which we publish twice yearly.

115 We also use this data to commission bespoke research looking at how we can improve inclusivity in healthcare regulation. Our latest work, 'Ambitious for Change' looks at where professionals going through our regulatory processes may have different access, experiences and outcomes linked to their protected characteristics, and the next steps we plan to take to help address this.

Question 25: Please outline any steps you take to eliminate unconscious bias from your recognition process.

116 The recognition of international professional qualifications is governed by legislation (Article 13 of the Nursing & Midwifery Order 2001). As a result, there is limited decision-maker discretion or policy-making which could be influenced by unconscious bias.

117 At present, EU applicants holding a recognised EU qualification benefit from automatic recognition rights and this will continue until the end of the EU-UK transition period. There is therefore no discretion in the recognition of these qualifications.

118 Overseas applicants must demonstrate that they possess a relevant qualification in nursing or midwifery, and our existing process requires these applicants to undertake the ToC in order to demonstrate that they have met our standards of proficiency. Administering the ToC reduces subjective decision-making and unconscious bias by requiring that all applicants meet an objective assessment of their skills before their qualification is recognised.

119 We also seek to implement fair and consistent policies to reduce subjective decision-making. When developing any new policies and processes, and also where we are making changes to any existing policy, we ensure that an equality impact assessment is completed. This ensures that our policies do not directly or indirectly discriminate against those applying or retaining their registration with us.

120 We have provided a recent example of a completed equality impact assessment here. This covers our temporary registration process, our emergency education standards, changes to fitness to practise, and all other changes we made up until the end of June to tackle the covid-19 pandemic.

121 We also have documented policies, standard operating policies and decision-making guidance in place which are reviewed regularly. Our staff and decision makers regularly attend unconscious bias training to eliminate discriminatory behaviours and patterns of thinking from our work.

122 Finally, our strategy sets out our four corporate values which underpin everything that we do. These are: we are fair, we are kind, we are collaborative, and we are ambitious. While all of these feed into our commitment to eliminate bias in our work, we would highlight the value of 'fairness' as especially important since this underpins our goal of being a trusted and transparent regulator and employer.

Question 26: Please outline any steps you take to support job creation in the profession you regulate.

123 Our primary function is to protect the public by setting the standards which people must meet both to enter, and to stay on the register. DHSC, the devolved

administrations and their respective public bodies are responsible for workforce growth. We support these organisations by sharing data and intelligence, as well as consulting them in changes to our systems.

124 We are committed to ensuring that our processes, systems and standards are evidenced, proportionate and flexible to the workforce needs of the sector. We do this primarily by reviewing our standards and processes in collaboration with those bodies responsible for job generation in our sector. In addition, our new strategy commits us to use the data, research and evidence we generate more effectively to support the sector to recruit the workforce it needs, and to retain them better.

Question 27: Please outline any steps you take to attract a diverse workforce to the profession you regulate.

125 We do not recruit nurses, midwives or nursing associates. This is role is undertaken by employers across the health and social care system. However, we do recognise and value the fact that our professions are diverse and this underpins our monitoring, publishing and use of diversity data. We are also bound by equality legislation.

126 We are committed to being transparent in terms of how we promote diversity and improve access to our services. To that end, we produce an annual Equality, Diversity & Inclusion (EDI) report setting out the latest data we collect and how we are using this to improve the experience of all people on our register.

127 Some key milestones we achieved in the 2019-20 for example include:

127.1 Updating our reasonable adjustment policy for people using our services and the development of supporting operational guidance for our employees;
127.2 The development of the Future Midwife standards of education, including requirements and guidance with a much stronger EDI focus. This follows the publication of our Future Nurse standards; and
127.3 The review of the overseas processes, where we have engaged with nurses, midwives and organisations that represent the views of diverse people and incorporated their input into our new processes and guidance.

128 As we have pointed out in section 115, we also undertake bespoke research into how we can improve inclusivity in healthcare regulation.

Question 28: Please detail any other information that you think we should take into consideration during this Call for Evidence.

129 We would reiterate our request for further conversations with BEIS on the content of this response.

For more information please contact:

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