Royal College of Nursing Scotland

SCOTTISH GOVERNMENT DEBATE ON THE EU HEALTH AND SOCIAL CARE WORKFORCE

The Royal College of Nursing

The Royal College of Nursing (RCN) is the world's largest professional organisation and trade union for nursing staff, with members in the NHS, independent and third sectors. RCN Scotland promotes patient and nursing interests by campaigning on issues that affect members, shaping national health policies, representing members on practice and employment issues and development opportunities. With around 40,000 members in Scotland, the RCN is the voice of nursing.

Background

Nursing continues to be included on the national shortage occupation list, and against the backdrop of the RCN's warnings on staffing levels contained in the RCN Labour Market Review: Unheeded Warnings and the Audit Scotland report on the NHS in 2016, Brexit presents an additional challenge to safe staffing levels and workforce planning. Scotland must continue to welcome and value the contribution of the 33,000 EU nationals working in the health and social care sectors.

EU citizens (by birth or nationality) make up a higher proportion of non-UK residents in Scotland than the UK as a whole. There is a higher proportion (as a share of total migrants) of people from the EU Accession 8 countries in Scotland than the UK equivalent. Proportionally, Scotland has seen a larger increase in the number of non-UK EU born inhabitants than the UK.

There are various estimates of how many EU nationals work in the health and care sector in Scotland, but none are reliable. The Accounts Commission report: social work in Scotland used a 2008 survey that showed 6.1% of the social care workforce in Scottish care homes for older people were EU – non-UK workers, and a further 7.3% were employed under work permits. The country of birth for almost 7% of all nurses and midwives and 5% of nursing auxiliaries and assistants in the UK workforce is within another EU country. In addition, almost 15% of all nurses and midwives and 20% of nursing auxiliaries and assistants employed in the UK were born in other countries. For nurses and midwives working for a health authority the proportion born in another EU country is estimated at just over 6% and the proportion born in another country is 15%. Among nursing auxiliaries and assistants, almost 6% were born in another EU country and further 20% outside the EU. The figures are much higher for private firms, with 12% of nurses and midwives born in another EU country and 30% in a non-EU country. Looking at nursing auxiliaries and assistants, 5% were born elsewhere in the EU while 25% report their country of birth as a non-EU country.

Workforce challenges

Across Scotland, there remains a shortage of nurses to ensure services are adequately staffed, and a lack of clarity on the future of EU nursing staff could be unhelpful to workforce planning.

Staffing levels are already under pressure with nursing vacancy rates increasing to 4.2% and a reliance on costly agency staff with bills soaring to £7.5m in the last year - an increase of almost 47%. NHS Scotland had 2207 nurse vacancies in March of this year and the social care sector is struggling to recruit and retain staff. It is also particularly difficult to recruit to some specialties, such as mental health, and the recruitment challenge in this sector is exacerbated by the fact that mental health nurses can retire at 55. There are pressures arising from the age profile of the nursing workforce in Scotland. In 2006, just over 40% (43%) of the nursing and midwifery workforce was aged 45 or over; in 2015, this had risen to well over half (54%). Many nurses will be retiring over the next ten years or so, particularly in community nursing: 46% of the district nursing workforce is 50 and over (December 2015, ISD NHS Scotland Workforce Statistics).

Although RCN Scotland was pleased that the Scottish Government honoured the recommendations of the NHS Pay Review Body, the 1% cap on pay increases over recent years has resulted in a real-terms fall in nursing pay of around 14% since 2010 – and has contributed to recruitment and retention problems. The future situation of EEA nationals already working in the health and care sector is also unresolved. These factors could cause a major problem for staffing in the NHS and other health and social care organisations, either directly through new restrictions preventing EU- born NHS staff from working in Britain or indirectly because EU-born

staff may choose to leave the UK due to the uncertainty created before new rules are put in place on migration restriction. In developing a coherent workforce strategy the SG should maintain and grow the domestic health and social care workforce, as well as working with the UK government to preserve the rights of European Economic Area (EEA) nationals currently working in the sector. It is important EEA health and social care workers in Scotland continue to feel valued as we enter this period of uncertainty. Depending on the terms negotiated in leaving the EU, Scotland may have to rely on recruiting more care staff from the local workforce. There is additional problem of the movement of UK staff in order to offset any impact on losing EU workers. In this circumstance it's entirely possible that for example one region within the UK could recruit from another region causing regional staffing pressures.

We will need to really value care workers for the great job they do. That means fair pay, training, and time to care. For those EU nationals already working in Scotland, RCN would welcome certainty for them by advocating for their right to remain.

Professional regulation and education

The sector has done considerable work shaping common EU standards for training and the recognition of qualifications, in particular through the Professional Qualifications Directive 2013/55/EU. This has enabled mobility and also helped raise educational standards and put safeguards in place across Europe, which facilitated the UK to recruit from Europe to make up for its own shortfalls. The Directive now includes language checks on EU nurses and a duty to inform other health regulators about suspended or banned professionals – these are important and positive developments for the UK.[1] RCN Scotland are concerned that a potential disassociation from these jointly developed standards could lead to a loss of safeguards, loss of access to alert mechanisms and other exchange between regulators and potentially much slower recognition mechanisms for both inward and outward mobility.

There is a wider regulatory dimension in which alignment with the EU and its single market will be crucial for patient safety and access to cutting-edge treatments; this includes the regulation of pharmaceuticals, medical devices, research data and clinical trials.[2]

Safeguard employment and social law provision

A substantial proportion of UK employment law originates from the EU and provides important protections for nurses and healthcare assistants, in particular, rules on health and safety at work, working time and on information and consultation on collective redundancies and safeguarding employment rights in the event of transfers of undertakings (TUPE).

The EU's key health and safety related directives provide a legal framework for employers to reduce the risks of musculoskeletal disorders (MSDs), biological hazards, stress and violence to health care staff. MSDs and stress are particularly prevalent in the nursing workforce and the main cause of sickness absence in the sector and, arguably, without the directives the situation would be worse. The implementation of hoists and other lifting equipment, as required by the Manual Handling Directive, has been proven to significantly reduce the risks for nurses and patients.[3] [4]

The Working Time Directive provides a framework to reduce fatigue within the nursing workforce and put safeguards in place such as compensatory rest and controls on working time to address the health and safety effects of shift work and long working hours. We strongly supported its adoption in the 1990s and the need subsequently for updating the directive.[5] Fatigue, long working hours, lack of rest breaks and poorly managed shift rotas are not only a risk factor that can impact on the health of nursing staff, but can also impact on patient safety.[6]

RCN Scotland are encouraged by the full transposition of all of the above legislation into UK law through the proposed Great Repeal Bill, but would be very concerned if any changes were to undermine the standards of existing legislation – as already predicted by legal experts[7] - sought by the UK government.

Conclusion

The impact of Brexit on the nursing workforce and student intake planning needs to be carefully considered. Depending on the settlement that the UK government negotiates with the EU post-Brexit, the flow of EU nationals could be impacted. The future situation of EEA nationals already working in the health and care sector is also unresolved. Both these factors could cause a major problem for staffing in the NHS and other health and social care organisations, either directly through new restrictions preventing EU-born NHS staff from working in Britain, or indirectly because EU-born staff may choose to leave the UK due to the uncertainty created before new rules are put in place on migration restriction.

RCN calls on the Scottish Government to work together with the UK government, and other political parties and stakeholders across Scotland to minimise the potential impact of Brexit on the health and social care workforce.

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[1] See also http://www.nhsemployers.org/your-workforce/recruit/employer-led-recruitment/international-recruitment/mobility-of-health-professionals-across-europe
[2] HM Government. *Review of the Balance of Competences between the United Kingdom and the European Union: Health.* July 2013. https://www.gov.uk/government/consultations/review-of-the-balance-of-competences-health
[3] Health and Safety Executive (2002) *Second Evaluation of the Manual Handling Regulations (1992) and Guidance*. HSE Books: Sudbury
[4] Health and Safety Executive (2003) *Evaluation of the implementation of the use of work equipment directive and the amending directive to the use of work equipment in the UK*. HSE Books: Sudbury
5.http://www.rcn.org.uk/__data/assets/pdf_file/0010/318493/Working_Time_Directive.pdf
[6] Patient Safety Network, *Nursing and Patient Safety*, July 2016, https://psnet.ahrq.gov/primers/primer/22/nursing-and-patient-safety
[7] Birrell et al., (2016) *The Impact of Brexit on UK Employment Law Rights and health and Safety Legislation*. Thompsons Solicitors: London.