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Status Information

Addressing learning shortfalls under ‘treaty rights’

Summary

- Where an EU applicant’s qualification cannot be assessed for entry to the NMC register under directive 2005/36EC, the individual has a right, under article 49 of the Treaty on the Functioning of the European Union (treaty rights), to have their education and professional experience considered against UK requirements for entry to the register. This right of freedom of establishment requires the NMC to take into consideration the diplomas, certificates and other evidence of qualifications which the applicant has acquired and make a comparison between the knowledge and skills certified by these qualifications and the knowledge and skills required to practise in the UK. The nature of the shortfall is communicated to the applicant in a decision letter.
- The information in Annexe 1 is new and supplements information in existing circulars. It does not replace any previous circular.

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- Annexe 1 to this circular sets out requirements to be met by approved education institutions (AEIs) who wish to provide learning opportunities to address shortfalls set out in an individual applicant’s decision letter under what are termed ‘treaty rights’. AEIs will be able to develop their own approaches to meeting the identified learning shortfalls subject to specific requirements. The requirements are based on principles used to meet additional learning requirements for applicants considered for NMC registration under Article 10 of Directive 2005/36/EC
 - AEIs do not have to accept requests to address shortfalls set out in an NMC decision letter.

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- This circular applies with immediate effect
 - This circular may be reproduced by all to whom it is addressed.

This circular has been issued by

Professor Dickon Weir-Hughes
Chief Executive and Registrar
Nursing and Midwifery Council

Annexe 1 to Circular 05/2011

Meeting additional learning requirements of EU nurses and midwives applying to register with the NMC under article 49 of the Treaty on the Functioning of the European Union (treaty rights)

Introduction

- 1 Where a nurse or midwife's pre-registration education is unable to be considered within the provisions of EC Directive 2005/36/EC on the recognition of professional qualifications (the directive), they may ask for their education and professional experience to be considered against UK requirements for entry to the register and be informed of what additional learning and experience is required for NMC registration. For nurses this includes any of the four fields of nursing that have marks on the register.
- 2 The above may apply where applicants:
 - 2.1 have not met the minimum standards for assessment under the general system as outlined in article 11 of the directive
 - 2.2 have undertaken a full time midwifery programme of at least 18 months whilst a qualified nurse responsible for general care, but not undertaken the required one year professional midwifery experience in order to be eligible for recognition in accordance with articles 41(c) and 41(2) of the directive.
- 3 Such applicants have a right, under article 49 of the Treaty on the Functioning of the European Union, to have their education and professional experience considered. Treaty rights might also apply in addition to those identified in (2) above. This basic right of freedom of establishment obliges the NMC to take into consideration the diplomas, certificates and other evidence of qualifications which the applicant has acquired and make a comparison between the knowledge and skills certified by these qualifications and the knowledge and skills required to practise in the UK.
- 4 The process of assessment requires the applicant to supply the NMC with a detailed transcript of education, together with information about post qualifying study, and a detailed description of their practice history. This is compared against the NMC standards for entry to the register and the applicant informed of significant shortfalls and ways that these might be addressed. This is communicated to the applicant in a decision letter.
- 5 The decision letter will clearly state that the application is not being assessed under the directive but under 'treaty rights' and gives the reasons for this.

- 6 Applicants have the right to appeal against the assessment decision.

Addressing a shortfall

- 7 Applicants whose programme of education shows significant shortfalls are sent a decision letter stating what needs to be met in terms of length and content.
- 8 The decision letter advises them about options for meeting the shortfalls, for example, by contacting an approved education institution (AEI) in the UK or ways in which the shortfall might be addressed in their home country.
- 9 All costs are to be met by the applicant.

Using an approved education institution (AEI)

- 10 Arrangements to address either a theoretical or practice shortfall in the UK have to be made through an AEI. However, it is for an AEI to decide whether they wish to provide an individual with the learning required to address a shortfall.
- 11 The NMC will either identify in the decision letter the specific outcomes to be achieved or set out broader time limited aspects of theoretical and/or practice based learning to be undertaken. Both will need to be assessed through individualised learning outcomes.
- 12 Successful achievement of the learning outcomes and the requirements of the decision letter are required to be formally endorsed through the AEI's relevant assessment board.
- 13 AEIs will wish to employ their own evaluation and quality control measures to demonstrate that the requirements of the decision letter have been addressed. This will be subject to NMC QA monitoring.
- 14 Proficiencies and competencies as set out in NMC pre-registration standards documents¹ must be used to inform the setting of individual outcomes and, where appropriate, these should be formulated to ensure integration of theory and practice to address the shortfall identified.
- 15 Where specific hours are identified to be made up these should be logged. However, theory time can include a range of learning methods including distance learning.
- 16 For midwifery applicants the principles within the *Overseas midwives programme: Standards for adaptation to midwifery in the UK* (NMC 2008) must also be used to inform and safeguard the learning and assessment to be undertaken.
- 17 Where an applicant approaches an AEI to address the shortfall set out in the decision letter, the AEI may develop a bespoke pathway using, as appropriate, aspects of existing approved programmes and integrated practice learning

¹ The requirements for nursing and midwifery pre-registration programmes can be found in Standards of proficiency for pre-registration nursing education, NMC 2004, and in Standards for pre-registration midwifery education, NMC 2009. Both can be downloaded from the NMC website www.nmc-uk.org

opportunities. These need to ensure that the UK standard is demonstrated at the required academic level.

Where the individual requires additional theoretical learning

- 18 The length and nature of the additional theoretical learning required will be set out in the decision letter. This might require specific aspects of theoretical updating to meet specific outcomes or more general learning requirements which may address broad areas. These might be at a higher academic level than the programme which the applicant originally undertook. Some applicants may never have studied particular content, whilst others will have generally covered the material but not in the depth or level of application required.
- 19 Additional theoretical learning should utilise aspects from relevant approved programmes, or, if extensive, should utilise modules or more significant parts of an approved programme. These could, for example, include: return to practice programmes, overseas nurses or midwives programmes, or pre-registration nursing or midwifery programmes.
- 20 Individual learning outcomes must be subject to the AEI's formal examination protocols. Where appropriate, these may take the form of assessments already used within approved programmes or utilise integrated theory and practice frameworks, for example, the essential skills clusters (ESCs)².

Where the individual requires practice based experience

- 21 A period of practice based experience often requires access to specific client groups. For example, when meeting requirements for 'general care' in adult nursing that requires a period of learning in maternal health, or mental health. This would normally be organised using arrangements already in place for delivering approved NMC programmes but will depend on the nature and extent of the shortfall.
- 22 Where a period of practice based experience is required, the applicant together with the AEI lead and mentor need to identify the individual outcomes to be assessed in practice and/or by portfolio. These need to be mapped to the shortfall identified in the decision letter to show that the requirements will be met.
- 23 AEIs must take steps to satisfy themselves that respective practice outcomes reflect contemporary practice and embrace principles that apply to nurses and midwives working within a UK regulatory context.
- 24 Practice learning must meet the requirements of NMC Factsheet C/2004 <http://www.nmc-uk.org/Educators/Quality-assurance-of-education/Factsheets/QA-Fact-sheet-C2004/> and comply with the *Standards to support learning and assessment in practice* (NMC 2008).

² The ESCs for nursing are set out in Circular 07/2007 http://www.nmc-uk.org/Documents/Circulars/2007circulars/NMCcircular07_2007Annexe%202.pdf ESCs for midwifery are incorporated within the Standards for pre-registration midwifery education (2009)

- 25 Achievement of practice learning outcomes will need confirmation by a sign-off mentor and, in addition for midwifery, a supervisor of midwives.
- 26 Evidence must be set out in the required documentation and returned to the NMC demonstrating that the requirements of the NMC decision letter have been fully met and all theory and practice outcomes have been achieved.

Specific nursing requirements

Applications for adult nursing

- 27 In order to be eligible for registration applicants must have met requirements for theoretical and clinical instruction to meet the *Standards of proficiency for pre-registration nursing education* (NMC 2004) and related circulars in the context of adult nursing. The Standards encompass the requirements of Directive 2005/36/EC on the training of nurses responsible for general care. The *Standards for pre-registration nursing education* (NMC 2010) are not effective under this circular.
- 28 The following should be used as a guide to the nature of learning and experience required to meet EU requirements in the following specific areas.

Child care and paediatrics

- 28.1 Learning should be achieved in relation to caring for children and young people (aged 0 – 16) in hospital or community settings as well as working to promote the health of children and young people. This may include well children or those with acute episodes of illness or children with long-term health conditions.
- 28.2 The learning from theoretical and direct care experiences should demonstrate an understanding of children and young people in society (including the need to safeguard / protect children); working with parents and other carers; communicating with children and young people, including gaining consent; a sense of the changing needs and levels of autonomy as the child develops; an appreciation of the differences in anatomy and physiology as children grow and develop and their altered tolerance to medication.
- 28.3 The emphasis should be on achieving an insight into the specific and changing needs of the child or young person, what these are and how they can be assessed, and how nurses can meet these through planned care.
- 28.4 It would not be intended that the nurse would demonstrate the skills of a registered children's nurse.

Maternity care

- 28.5 Learning achieved should be relevant to the needs of the student in preparation for professional registration as a nurse. Childbirth is a normal

physiological process and maternity care should be seen in the context of health promotion, community support and child health.

- 28.6 The emphasis should be on achieving an understanding of the role of the midwife in relation to supporting women during pregnancy and in the postnatal period including parenting skills and providing nursing care in an emergency to safeguard mother and baby. There should also be an understanding of community and social services available to pregnant and newly delivered women and the contribution of those professionals who provide them. Acceptance and integration of a new baby into the 'family unit' is also important.
- 28.7 It would not be intended that the nurse would demonstrate the skills of a registered midwife.

Mental health and psychiatry

- 28.8 Learning should be focused on promoting mental health, relieving distress and for helping people in either hospital or in the community to cope, adjust, recover and regain their independence. A range of theoretical and direct care experiences should provide insight into nursing interventions that support people who are distressed. This might include participation in the care of people perceived to be: anxious, depressed, distressed, confused, pre-occupied, hyperactive, disturbed, are misusing substances, aggressive, likely to harm themselves, or be a risk to others.
- 28.9 It is recommended that direct care experiences include some opportunity to appreciate the importance of managing risk, for example, for those who are confused, likely to harm themselves or be a risk to others. The emphasis should be on achieving insight into what can be done to support individuals sufficient for them to be able to cope with their immediate circumstances or at least until expert assistance can be obtained.
- 28.10 It would not be intended that the nurse should be able to demonstrate the level of skill expected of a registered mental health nurse.

Care of the old and geriatrics

- 28.11 Learning should be achieved in relation to caring for older people in hospital, in their own homes or in supported community settings taking into account the range and nature of care that older people require. This includes an understanding of how care is based on clinical need, not age, and how services treat older people as individuals; promote their quality of life, independence, dignity and their right to make choices about their own care. This should include an understanding of the role of family, carers and other professionals in safeguarding and helping older people remain safe, avoid a crisis, prevent emergency hospital admissions and maintain their independence.
- 28.12 The learning from theoretical and direct care experiences should demonstrate an understanding of health promotion and disease prevention

in the elderly, the process of ageing as it might affect daily living needs, including an altered tolerance for prescribed drugs. Direct care experiences must demonstrate how those unable to meet their own needs have been assessed and cared for with dignity, care and compassion and enabled to address their spiritual and intellectual needs. Experience should, wherever possible, include the care of those following stroke and falls and for people with dementia.

- 28.13 The emphasis must be on assessing and addressing needs with sensitivity and delivering care that safeguards the interests of vulnerable people, maximises independence and which responds effectively to a crisis.

Home nursing

- 28.14 Learning should be directed at caring for people in a range of community settings that could include their own homes, general practice, walk-in centres, schools and the workplace. Opportunities should provide an awareness of the management of acute care, minor illness, minor ailments, and long-term conditions outside of hospital.

- 28.15 In particular there should be experience of the management of long term conditions such as dementia, diabetes, asthma and arthritis within the context of public health practice, and demonstrating how care in the home differs from secondary care. The aim is to enable people to remain independent and meet their optimum health potential by being treated as individuals and having the right to make choices. This should include an understanding of the role of family, carers and other professionals in helping individuals to identify their own health needs so as to avoid a crisis, prevent emergency hospital admissions and maintain independence.

- 28.16 Opportunities should allow an understanding of public health practice to be demonstrated, including identifying the determinants of health, the incidence and prevalence of disease patterns, health promotion models, and disease prevention. This should include an understanding of partnership working and the impact of wider issues on the health of individuals, families and communities. The emphasis is on the identification of health needs within the community addressing health inequalities and safeguarding the most vulnerable, including an awareness and management of child protection, domestic violence and elder abuse.

- 28.17 Any shortfall to be met will be identified in the decision letter.

Applications for children's nursing

- 29 In order to be eligible for registration applicants must have met requirements for theoretical and clinical instruction to meet the *Standards of proficiency for pre-registration nursing education* (NMC 2004) and related circulars in the context of children's nursing, including:

- 29.1 care for children in a range of care settings, including specialist medicine and surgery

- 29.2 care for children in emergency, neonatal and high dependency environments
- 29.3 care for children at home, in school, and in the community
- 29.4 work with families and carers to care for sick children of all ages

30 Any shortfall to be met will be identified in the decision letter.

Applications for mental health nursing

31 In order to be eligible for registration applicants must have met requirements for theoretical and clinical instruction to meet the Standards of proficiency for pre-registration nursing education (NMC 2004) and related circulars in the context of mental health nursing, including:

- 31.1 mental health nursing in a range of care settings, including acute and enduring/chronic illness
- 31.2 care for children and young people who have mental health problems
- 31.3 specialist mental healthcare (e.g. substance abuse, challenging behaviour, and care in secure and locked environments)
- 31.4 care for elderly adults who have mental health problems
- 31.5 continuing care and rehabilitation
- 31.6 community care and support services

32 Any shortfall to be met will be identified in the decision letter.

Applications for learning disabilities nursing

33 In order to be eligible for registration applicants must have met requirements for theoretical and clinical instruction to meet the *Standards of proficiency for pre-registration nursing education* (NMC 2004) and related circulars in the context of learning disabilities nursing, including:

- 33.1 in a range of care environments, including residential and day-care settings
- 33.2 in a range of environments to support people who have complex needs and mental health problems including continuing care and rehabilitation services
- 33.3 care for people of all ages (from childhood to old age) who have learning disabilities
- 33.4 working with families and carers to support people who have learning disabilities

34 Any shortfall to be met will be identified in the decision letter.

Specific midwifery requirements

- 35 In order to be eligible for registration applicants must have met requirements for theoretical and clinical instruction to meet the Standards of pre-registration midwifery education (NMC 2009) and related circulars including:
 - 35.1 advising pregnant women, involving 100 pre-natal examinations
 - 35.2 carrying out 40 deliveries
 - 35.3 taking part in breech deliveries either as clinical practice or simulation
 - 35.4 performing episiotomy and suturing of episiotomy or tears
 - 35.5 supervising and caring for 40 women who are at risk in pregnancy, labour or the post-natal period
 - 35.6 supervising and caring for 100 post-natal women and healthy new-born babies
 - 35.7 observation and care for new-born babies who need special care, (this may include neonatology)
 - 35.8 caring for women who have pathological conditions relating to gynaecology or obstetrics
 - 35.9 an introduction to medicine and surgery
 - 35.10 experience as a midwife working in a primary or community care setting
- 36 The standards incorporate the mandatory requirements in Article 41 of the Directive 2005/36/EC.
- 37 If the applicant is a nurse who has undertaken an 18 month programme focused entirely on midwifery, with a balance of half practical or clinical training and half theoretical training, they will be required to have completed one year post qualifying experience in midwifery.
- 38 Where the one year post qualifying experience has not been completed, a period of supervised practice and theoretical learning of no less than three months³ will normally be undertaken at a minimum of ordinary degree level. The actual duration and content of additional learning required will be dependent on the shortfall based on the length and content of midwifery training undertaken compared with the UK standard. As a minimum this must include:
 - 38.1 knowledge of national screening programmes (essential skills cluster: initial consultation between the woman and the midwife).

³ Three months adopts the principle applied within the Overseas midwives programme: Standards for adaptation to midwifery in the UK (NMC 2008)

- 38.2 experience of normal birth in settings other than acute maternity units such as midwifery led units, birth centres and home birth (essential skills cluster: normal labour and birth).
 - 38.3 evidence of treating women with dignity and respecting them as individuals ensuring that personal judgments, prejudices, values, attitudes and beliefs do not compromise the care provided (essential skills cluster: communication)
 - 38.4 legislation and regulation in the UK to include knowledge of the code, midwives rules and standards and standards for medicines management, particularly around midwives responsibilities and midwives exemptions.
 - 38.5 knowledge and understanding of statutory supervision of midwives.
- 39 Any shortfall to be met will be identified in the decision letter.