

Council

Overseas Registration Policy

Action: For decision.

Issue: To update Council on progress with the review of overseas registration and to seek agreement to the draft revised overseas registration policy.

Core regulatory function: Registrations.

Corporate objectives: Corporate objective 1: safeguarding the public's health and wellbeing by keeping an accessible, accurate register of all nurses and midwives who are required to demonstrate that they continue to be fit to practise.

Decision required: Council is recommended to:

- Note the progress on the review.
- Approve the draft policy at Annexe 1.

Annexes: The following annexe is attached to this paper:

- Annexe 1: draft overseas registration policy.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 We are undertaking a review of our current policy and processes in relation to overseas applications for registration. The review was announced externally on 1 February 2013 in a press release.
 - 2 This is necessarily a short term review aimed at addressing deficiencies to stabilise the current process. A more fundamental review will take place in due course as part of the registration improvement plan.
 - 3 In light of the review we have stopped processing current applications and accepting new applications. We expect that the first phase of the review will be completed by the end of February 2013, from when we will be in a position to start dealing with applications again.
 - 4 We do not intend to undertake a formal consultation as the purpose of the review is to stabilise our process by strengthening our operations.
 - 5 A more wide ranging review will need to take place in due course at which stage we will undertake the full consultation. It is also important that we implement these initial changes to stabilise the position and a full consultation exercise would build in a delay of at least four months, and probably considerably longer. We are writing to the PSA and DH to inform them that we will not be undertaking the consultation at this stage.

Discussion and options appraisal:

- 6 It is important to have a clear high level policy on overseas registration, on which the internal and external guidance will be based. Our current policy mixes both high level policy and the detailed guidance.
- 7 The attached draft details the high level key principles that we will apply to make the process for assessing overseas applications robust.

Recommendation: Council is recommended to approve the draft policy at Annexe 1.

Public protection implications:

- 8 Maintaining an accurate register of nurses and midwives who are capable of safe and effective practice is core to our public protection remit.

Resource implications:

- 9 We will need to review the resource in the international registration team in the light of the outcome of the review.

Equality and

- 10 It is essential that our policies and procedures in registration are fair

- diversity implications:** and free from discrimination. The policy stresses the importance of fair and consistent decision making and the underlying guidance and SOPs will have to provide for decision making that is free from discrimination.
- Stakeholder engagement:** 11 To date this has been internal only and at this stage we do not intend to consult on these changes. We will consult when we undertake the more fundamental review of our registration processes.
- Risk implications:** 12 Failure to assess an applicant for registration properly and putting someone on the register when they are not capable of safe and effective practice is a fundamental and severe risk to public protection and the reputation of the NMC.
- Legal implications:** 13 These are set out in the paper.

Annexe 1

Overseas Registration policy

Introduction

- 14 This policy sets out the NMC's approach to the consideration of overseas applications to the UK register of nurses and midwives.

Who this policy applies to

- 15 This policy applies to applicants, who:
- 15.1 do not hold an approved UK qualification,
 - or
 - 15.2 are not eligible for consideration as a European Economic Area (EEA) applicant because they do not meet the requirements to be assessed in accordance with the relevant provisions of European and UK legislation on the recognition of qualifications.

Aims of the policy

- 16 The aim of the Overseas Registration Policy is to set out the key principles the NMC will apply in fulfilling its public protection remit when assessing overseas applications to the register. The policy provides information on how overseas applications will be considered and should assist potential applicants in deciding whether to make an application for registration with the NMC.

Legislative Framework

- 17 The Nursing and Midwifery Order 2001 (referred to as the Order) established the NMC and sets out the powers that it must apply and those that it may apply.
- 18 Article 5 of the Order requires the NMC to establish and maintain a register of qualified nurses and midwives.

“5.—(1) In accordance with the provisions of this Order the Council shall establish and maintain a register of qualified nurses and midwives.

(2) The Council shall from time to time—

(a) establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register; and

(b) prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Registrar that an applicant is capable of safe and effective practice as a nurse or midwife.”

- 19 Article 9 of the Order sets out who is entitled to seek admission to the register and the conditions that must be met.

“9.—(1) [.....] a person seeking admission to a part of the register must apply to the Council and, subject to the provisions of this Order, if he satisfies the conditions mentioned in paragraph (2) he shall be entitled to be registered in that part.

(2) Subject to paragraph (3), the conditions are that the application is made in the prescribed form and manner and that the applicant—

(a) satisfies the Registrar that he holds an approved qualification awarded—

(i) within such period, not exceeding five years ending with the date of the application, as may be prescribed, or

(ii) before the prescribed period mentioned in head (i), and he has met such requirements as to additional education, training and experience as the Council may specify under article 19(3) and which apply to him;

(b) satisfies the Registrar in accordance with the Council’s requirements mentioned in article 5(2) that he is capable of safe and effective practice as a nurse or midwife; and

(c) has paid the prescribed fee.”

- 20 Article 13 of the Order also sets out who is considered to have an approved qualification. Article 13(1)(d) applies to international applicants from countries outside the EEA, and states:

(d) he is not an exempt person and he has, elsewhere than in the United Kingdom, undergone training in nursing or midwifery, and either—

(i) the Council is satisfied that his qualification attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a), or

(ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying,

and, in either case, he satisfies prescribed requirements as to knowledge of English;

- 21 The NMC is also required to establish procedures by which overseas applications will be assessed.

“13.—(2) *The Council shall determine procedures to—*

(a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to a qualification mentioned in paragraph (1)(a) and it shall, where it sees fit, keep a list of qualifications which are of a comparable standard which it shall publish and keep under review; and

(b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard of proficiency required for admission to any part of the register.”

22 The Order requires the NMC to set out in rules much of its activity concerning registration and these are set out in the *Education, registration and registration appeals rules*.

23 In addition EU Directive 2005/36/EC *on the recognition of professional qualifications* stipulates that member states may recognise qualifications gained outside the territory of the EEA, but that in doing so must apply the minimum standards of education for nurses and midwives set out in the directive. In particular paragraph 10 of the preamble to the Directive states that:

This directive does not create an obstacle to the possibility of Member State recognising, in accordance with their rules, the professional qualifications of acquired outside the territory of the European Union by third country nationals. All recognition should respect in any case minimum training conditions [...]

Key Principles of the policy

24 We will process all applications for registration in line with our primary duty, which is to protect patients and the public through efficient and effective regulation. We will deal with applicants with fairness and in accordance with the *Principles of Better Regulation*, which are to be:

24.1 Proportionate

24.2 Accountable

24.3 Consistent

24.4 Transparent

24.5 Targeted

25 All decisions will be made in accordance with the relevant legislation. We will only enter nurses and midwives on to the register, who are capable of safe and effective practice. In making decisions about whether to register a nurse or midwife we will require them to:

25.1 possess an approved qualification,

25.2 have sufficient post qualifying practice experience,

- 25.3 hold current registration without restriction with relevant regulatory body in the country in which they qualified, or in which they have been most recently practising,
 - 25.4 be of good health and good character,
 - 25.5 meet the required standard of English language,
 - 25.6 have completed the Council's prescribed requirement relating to preparation to practise or assessment of their competence through a UK approved education institution prior to registration,
 - 25.7 have read, understood and agreed to comply with the Code, and
 - 25.8 have paid the prescribed assessment and registration fees.
- 26 We are committed to providing good standards of customer service. In particular, we will deal with all applications in a timely manner and in accordance with statutory timescales.
- 27 All decisions will be fair, consistent and reasoned and in circumstances when we refuse an application we will provide clear explanations to the applicant.
- 28 We will have a process to deal with appeals against our decisions in a fair and timely manner.
- 29 As appropriate we will work and share information with other relevant organisations in assessing overseas applicants.

Preventing fraudulent entries

- 30 In order to protect the public from the risk of harm we must be satisfied about the identity of nurses and midwives on our register. We will ensure that there are robust procedures in place to prevent anyone securing registration fraudulently. This will include procedures to assess that the documents we receive are genuine.
- 31 We will require all applicants to satisfy us that they are who they say they are. We will set up and apply robust standards in relation to the checks we undertake to verify the information provided by applicants in relation to their identity.
- 32 If we discover that an individual has applied to the NMC in a fraudulent manner we will reject the application and reserve the right to report the individual to the police. If we find that a nurse or midwife has entered the register through fraudulent means we will remove that individual from the register and refer them to the police. In both instances we will also inform the applicant's home regulator of the incident and provide them with evidence.
- 33 We will require applicants to satisfy us that they do possess the qualifications that they claim to have. We will require applicants to provide objective evidence from their education institution from which they obtained their qualification in support of their application.

- 34 We reserve the right to require applicants to present in person at the NMC's offices or elsewhere with the necessary documents to confirm their ID and the information supplied during the application process.
- 35 Where the relevant documents are in a language other than English we will require the applicant to arrange for a translation by a suitably qualified and authorised translator.

Safe and effective practice

Qualification

- 36 To satisfy ourselves that the applicant is capable of practising safely and efficiently in the UK as a nurse or midwife we will assess whether the qualification they have been awarded is of a comparable standard to a relevant qualification awarded in the UK. We will assess the content of the programme of study, including the proportion of theoretical and clinical hours undertaken on the course.
- 37 In making assessments about qualifications, we reserve the right to take advice from other bodies, including UK NARIC, which is the UK's National Agency responsible for providing information and opinion on vocational, academic and professional qualifications from across the world.

Experience and practice

- 38 Assessing the qualification held by the applicant is only one way of assuring ourselves that the applicant is capable of safe and effective practice as a nurse or midwife in the UK. We will consider whether the applicant has undertaken the necessary post-qualifying practice and experience in each area of nursing or midwifery deemed appropriate for the part of the Register for which they are applying.
- 39 We will put mechanisms in place to prepare and assess applicants' ability to practise in a UK healthcare environment and to ensure that they meet the same standards as are required of UK-trained nurses and midwives. All applicants who are subject to this policy will therefore have to meet the Council's prescribed requirements for assessment of competence through a UK approved education institution prior to registration

Good Health and Good Character

- 40 Applicants will be required to make a self-declaration that they meet our requirements in relation to good health and good character. We will also require a declaration in relation to this from two employers and any overseas regulatory body with which the applicant is registered.
- 41 The applicant will also be required to declare their commitment to comply with the Code.

English language testing

- 42 All applicants are required to demonstrate that they can communicate clearly and effectively in English, both in writing and verbally. All overseas applicants are

required to undertake the academic version of the International English Language Test. To be entitled to registration they must achieve a score of no less than 7 in each of the sections of listening, reading, writing and speaking.

Administration fee

- 43 We will not process an application unless we have received the prescribed fee in force at the time of the application. As with all of our fees this amount will be subject to review periodically.

Timeliness

- 44 We will deal with all applications as quickly as possible and in any event in accordance with statutory deadlines. However, we will not do this at the expense of public protection. We will ensure that all applications are dealt with thoroughly and that we are fulfilling our statutory duties as the regulator for nurses and midwives.

Transparency

- 45 Where we are unable to grant registration we will explain the reasons to the applicant. The letter will outline clearly where the application does not meet our requirements.

Appeals

- 46 When we advise an applicant that their application has been unsuccessful we will inform them of their right of appeal. Appeals against decisions are adjudicated on by the NMC's Appeal Panel. We are committed to dealing with such appeals in a fair and consistent manner.
- 47 Where an applicant requests an appeal we will schedule for this to take place as soon as possible, subject to the availability of the key parties to the case. Currently our aim is to hear all such appeals within six months of the applicant requesting the appeal hearing.

Sharing information

- 48 We will work with all relevant authorities in assessing applications, including the police, the Border Agency, UK NARIC, educational institutions, employers and other regulators.

Application of this policy

- 49 This policy is effective from [1 March 2013] and will be reviewed annually.