

Council

English language requirements for registration

Action: For decision.

Issue: This paper summarises the outcomes of the consultation the NMC undertook on proposals to ensure that all registered nurses and midwives have the necessary knowledge of English to practise safely in the United Kingdom (UK). It seeks the Council's approval of the proposed registration policy for English language competence, approval of Council's guidance for European Economic Area (EEA) applicants, and agreement to proceed with making the necessary amendments to the relevant NMC rules to implement these changes.

Core regulatory function: Registration / Fitness to Practise.

Corporate objectives: Strategic priority 1: Effective regulation.

Decision required: The Council is recommended to:

- Consider the conclusions from the consultation, as attached at Annexe 1 (paragraph 20).
- Approve the Tier 2 policy for English language competence for the registration of nurses and midwives, as attached at Annexe 2 (paragraph 22).
- Approve the Guidance for EEA trained nurses and midwives on evidence that will satisfy the Registrar that they have the necessary knowledge of English, as attached at Annexe 2 (paragraph 24).

Annexes: The following annexes are attached to this paper:

- Annexe 1: Summary of findings from the NMC's consultation on language controls.
- Annexe 2: Tier 2 Policy for English language competence for the registration of nurses and midwives.
- Annexe 3: Guidance for EEA trained nurses and midwives on evidence that will satisfy the Registrar that they have the necessary

knowledge of English.

- Annexe 4: Draft *Nursing and Midwifery Council (Fitness to Practise) (Education, Registration and Registration Appeals) (Amendment No. 2) Rules Order of Council 2015*.

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 In March 2015, new UK legislation¹ was approved by the UK Parliament which introduced new requirements relating to English language competence for certain professions, including nurses and midwives. These changes form part of the transposition into UK law of the European Union (EU) Directive on the Mutual Recognition of Professional Qualifications (MRPQ)². The legislation introduced new provisions for all nurses and midwives in relation to three areas:
 - 1.1 a requirement for EEA trained nurses and midwives to provide evidence that they have necessary knowledge of English as a prerequisite for registration with the NMC;
 - 1.2 a new general requirement for all nurses and midwives to demonstrate they have the necessary knowledge of English when seeking readmission to the register following a lapse in registration; and
 - 1.3 an additional ground of impairment of not having the necessary knowledge of English to strengthen our ability to take fitness to practise action in relation to nurses and midwives who are already on our register where concerns are raised about their knowledge of English.
 - 2 As a result of this legislation, the Council has been provided with rule making powers to specify how the NMC will operate its process to ensure that nurses and midwives have the necessary knowledge of English to be registered.
 - 3 Although the Section 60 Order is now in effect, its individual provisions are subject to a Commencement Order³ and will come into effect at a later date. The Council's rule making powers will come into effect on 19 October 2015 while the new registration requirements themselves will come into effect on 18 January 2015.
 - 4 Previously, the specific details of the new registration requirements would have been inserted into the *Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004*.⁴ The current approach being taken by the Department of Health, with the support of the regulators, is that it is preferable for much of the required detail to be placed in guidance issued by the Council and not in the legislation. Although some consequential changes are being made to NMC Rules, which the Council will be requested to approve, information for applicants who wish to apply for registration will be placed in guidance. An advantage of this approach is that subsequent changes can be made by the Council

¹ *The Health Care and Associated Professions (Knowledge of English) Order 2015* (SI 2005/806)

<http://www.legislation.gov.uk/ukSI/2015/806/contents/made>

² Directive 2005/36/EC on the recognition of professional qualifications, as amended by Council Directive 2013/55/EU (The Directive)

³ *Health Care and Associated Professions (Knowledge of English) Order 2015 (Commencement No. 1) Order of Council 2015* (SI 2015/1451)

⁴ Referred to as The Registration Rules

without the need for legislation change via a parliamentary process.

- 5 At its meeting in May 2015, the Council agreed that we should proceed with our plans to launch a public consultation on how we will implement these new powers. The consultation document included a range of annexes which set out the draft guidance that we will provide to applicants on the information we are likely to accept as evidence that they have the necessary knowledge of English, as well as a draft of the proposed amendments to our rules.

Discussion: Our consultation

- 6 The consultation ran from Monday 1 June to Friday 21 August 2015. We received 723 responses in total, of which 666 were from individuals (the overwhelming majority from current NMC registrants) and 59 on behalf of organisations. The summary of consultation responses is attached at Annexe 1 and gives a more detailed breakdown of the profile of respondents.

Overall response

- 7 On the whole, there was general positive agreement with proposals for how we intend to implement the new process. Findings for all but one of the questions in the consultation show that the proposals were supported by a majority of respondents.
- 8 Below provides a brief summary of the main issues raised during consultation and our position on each. A summary of the analysis of feedback from the consultation is attached at Annexe 1.

Use of International English Language Testing System (IELTS) and appropriateness of the score level

- 9 The first part of the consultation sought views on the criteria we will use to determine types of evidence that will routinely satisfy us that EEA trained nurses and midwives seeking to join our register have the necessary knowledge of English. It listed a range of evidence that we will accept and stated that if an applicant is unable to provide such evidence, we will require them to successfully pass an IELTS before we grant them registration. The majority (58 per cent) of respondents agreed that the proposed types of evidence were fair and appropriate and that IELTS was an appropriate test.
- 10 Those who disagreed favoured a more flexible approach and queried the use of IELTS as the NMC's test of choice. Of those who thought we should also consider other non-IELTS tests, some made suggestions of alternative tests or advocated for the NMC to develop its own language assessment.

- 11 Another concern expressed by a number of respondents was whether the requirement to achieve a minimum of 7.0 across each domain of the test (reading, writing, speaking and listening) was too high. However, there were mixed views on the appropriate IELTS threshold, with a small number of respondents wanting to see higher minimum scores (overall and/or for the individual various components).
- 12 We have considered these comments and our view is that currently IELTS is an appropriate method for assessing English language competence. IELTS has been shown to be a robust language proficiency test, is the preferred method of other UK healthcare regulators and is commonly employed across Government in other domains (such as by Home Office for UK visa applications). Its use also ensures consistency with our current requirements for overseas trained nurses and midwives.
- 13 This paper concerns the new overarching requirements for registration and for EEA applicants emanating from new government legislation. Where a formal English language test is required, the new process brings the EEA requirements into line with the requirements already in place for non-EEA (overseas) applicants. We recognise however that there are a number other English language tests available and in development, and we are committed to continually reviewing our evidence requirements to ensure they remain fit for purpose. We plan to conduct a wider review of our language evidence requirements for both overseas and EEA applicants as part of the evaluation of the new overseas competency test. We will include the issues raised in the consultation referred to in this paper in the scope of this review.

English language competence requirements for those applying for readmission to the register

- 14 The majority of respondents (54 per cent) agreed that the criteria outlined in the consultation cover the main areas that the Registrar should take into account when deciding whether to seek additional evidence at the point of readmission to our register.
- 15 We do not anticipate that it will be necessary to collect significant amounts of additional evidence at the readmission stage. In the majority of cases, where a nurse or midwife has met the practice requirements or has successfully undertaken a return to practice programme this will enable them to meet the evidence criteria. However, there may be some instances where further evidence may be sought. For example, when a non-UK trained nurse or midwife has met the practice requirements but this practice was not undertaken in the UK or in a non-English speaking country, additional evidence may be required.
- 16 We believe that this is a proportionate approach that meets the public protection interest, prevents readmission for those who cannot meet the NMC's language requirements and is not administratively burdensome.

New ground of impairment relating to language competence

- 17 The final part of the consultation focused on the ways in which we are proposing to deal with nurses and midwives already on our register where concerns are raised about their English language skills. Most respondents (52 per cent) agreed that the new ground of impairment will strengthen our ability to protect the public and agreed with using the same test (IELTS) as part of any fitness to practise investigation on grounds that this ensures consistency of approach with initial registration and readmission.
- 18 There was a consensus that concerns about a nurse or midwife's language skills must be sufficiently serious to warrant a language assessment. We are developing clear guidance for decision makers to ensure that decisions about directing a registrant to undergo a language assessment as part of a fitness to practise investigation are made fairly and consistently.
- 19 Other concerns raised included that the proposed approach would reverse the burden of proof by putting the onus on the individual registrant to organise and fund an IELTS test. Closely related to this point, the issue of parity with our approach to other assessments (such as performance or health assessments) as part of fitness to practise investigations was raised. We believe that these concerns will be mitigated by the NMC meeting the cost of language assessment required as part of a fitness to practise investigation.
- 20 **Recommendation 1: The Council is recommended to consider the conclusions from the consultation (as attached at Annexe 1).**

Policy and guidance

- 21 In accordance with the NMC's policy governance framework, a tier 2 registrations policy has been created and is attached as Annexe 1. This policy which formed part of the consultation sets out the requirements that will satisfy the Registrar that a nurse or midwife has met the necessary knowledge of English.
- 22 **Recommendation 2: The Council is asked to approve the tier 2 policy for English language competence for the registration of nurses and midwives (as attached at Annexe 2).**
- 23 As outlined in paragraph 4 on page 3, instead of placing all of the detailed requirements into legislation, the Council is authorised to agree and publish guidance for applicants wishing to apply for registration. Article 5A of the Order, which will come into effect in accordance with the commencement order (see paragraph 3), requires the Council to publish this guidance. The guidance for EEA trained applicants is attached to this paper as Annexe 2.

- 24 **Recommendation 3: The Council is asked to approve the guidance for EEA trained nurses and midwives on evidence that will satisfy the Registrar that they have the necessary knowledge of English (as attached at Annexe 3).**

Language controls for nurses and midwives who are required to undertake compensation measures

- 25 A section of the consultation concerned EEA applicants who apply for registration and who are required to undertake a compensation measure (either an adaptation period or an aptitude test) to make up shortfalls in their training. Our policy approach, which we included for views in the consultation, was that we would prefer to impose language controls before a nurse or midwife began a compensation measure. This approach was primarily conceived due to concerns that applicants may have access to patients on an adaptation period before they had satisfied the NMC that they had the necessary knowledge of English.
- 26 We have now been informed that this will not legally be possible due to the requirements of the Directive. We are therefore currently considering our options in relation to this small group of applicants, particularly in relation to whether adaptation periods are an appropriate vehicle for making up shortfalls in the future.

Rule changes

- 27 The additional legal power for the Council to make Rules to implement these changes is provided by *The Health Care and Associated Professions (Knowledge of English) Order 2015* (which made changes to the Nursing and Midwifery Order) which will take effect on 19 October 2015.
- 28 Subject to the Council's agreement with the legal drafting set out in Annexe 4, members will be asked to make the necessary Rules by correspondence following the coming into effect of the rule making power. The Amendment Rules will make the required change to the *Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004*⁵ and *The Nursing and Midwifery Council (Fitness to Practise) Rules 2004*⁶.
- 29 Following agreement the Rules Amendment Order will be executed under seal of the Council and passed to Privy Council for approval and be laid in Parliament. We anticipate the provisions which will amend the NMC Order coming into force on or about 18 January 2016, with our Rules taking effect shortly thereafter.

⁵ SI 2004/1767 (as amended)

⁶ SI 2004/1761 (as amended)

Stakeholder communications

- 30 A comprehensive communications plan has been formulated – new applicants from the EEA will be informed prior to the launch of the new process. We will also be amending the information we provide for employers to emphasise the new requirements but also reiterate their role in ensuring nurses and midwives they employ are fit for employment.

Public protection implications:

- 31 These proposals will enhance our ability to protect the public by making sure that all registered nurses and midwives have the necessary knowledge of English to practise safely in the UK. The majority of respondents to the consultation acknowledged the significant benefits in terms of public protection resulting from these new powers.

Resource implications:

- 32 All resources required for the implementation of these proposals have been included within the budget for the project focusing on the wider changes required as a result of the revised MRPQ Directive.

Equality and diversity implications:

- 33 An Equality Impact Assessment (EqIA) was completed prior to the launch of the consultation and reviewed post-consultation. No evidence was presented as part of the consultation responses to conclude that these proposals will have adverse equality implications. Our proposals will bring greater consistency between requirements for registration for EEA trained nurses and midwives and those who have trained overseas.
- 34 We received a small number of responses arguing that language controls should be imposed in relation to Welsh language. This issue has been already addressed and concluded on by the Department of Health as part of its consultation process. The Government's response clarified that the MRPQ Directive allows Member States to introduce controls in relation to one language only and that English is the most appropriate for the UK⁷.
- 35 We accept that in certain areas, it will be beneficial for nurses and midwives to be able to communicate with patients in Welsh. While only knowledge of English will become a requirement for registration, it is important to recognise that this would not preclude employers from making knowledge of Welsh a prerequisite, where appropriate, for particular roles.

Stakeholder engagement:

- 36 We used a range of methods to publicise the consultation and engage with stakeholders. A full communications and stakeholder engagement plan has been created to ensure that all of the changes outlined in this paper and its annexes are communicated and publicised effectively.

Risk

- 37 There are a number of risks associated with the introduction of language

⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399314/Consultation_report.pdf

- implications:** controls for EEA applicants, these are:
- 37.1 The risk that the new process has a significant negative effect on the number of EEA trained nurses and midwives who are able to register with the NMC; and
 - 37.2 The risk of challenge relating to differential treatment of different categories of applicants; particularly in relation to overseas (non-EEA) applicants from countries where English is the first and native language and who would be able to satisfy the language evidence requirements set out in the policy for EEA applicants.
- 38 An additional risk relates to the process for Parliamentary approval for changes to the NMC's Registration Rules and Fitness to Practise Rules, in particular timescales. A significant delay in approval of the legislation would result in internal processes being ready to launch but being prevented from doing this due to lack of a legal basis.
- Legal implications:** 39 The required changes to our rules as a result of these proposals are outlined above at paragraphs 27 to 29 of this paper.

Council

Summary of findings from our consultation on English language requirements and process for registration with NMC

Background

From 1 June to 21 August 2015, the Nursing and Midwifery Council (NMC) ran a public consultation on proposals for ensuring that all registered nurses and midwives have the necessary knowledge of English to practise safely in the UK. We sought views on three main areas:

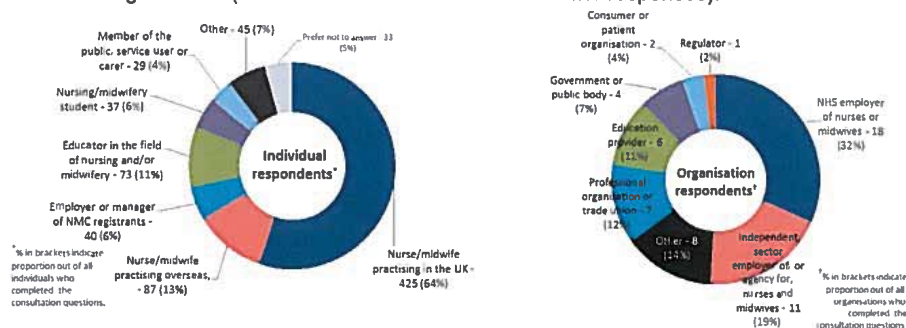
- the types of evidence that will satisfy us of the language competence of European Economic Area (EEA) trained nurses and midwives before granting entry to the register;
- our approach to considering language competence as a requirement for readmission to the register following a lapse in registration; and
- our approach to dealing with fitness to practise referrals where concerns are raised about the language competence of nurses and midwives on our register.

This document sets out a summary of the responses to our consultation and our position in response. We asked nine questions as part of the consultation. A breakdown of responses to each of the questions is shown below.

Profile of respondents

A total of 723 completed survey responses were received (with two additional responses received by letter). We have carried out a quantitative and qualitative analysis to draw out the main themes emerging for each of the questions posed.

Of the total sample, 666 responses came from individuals and 59 responses were on behalf of an organisation (two of which were the additional letter responses).¹



¹ In the above diagram with the breakdown of individual respondents, the total exceeds 100 percent as individual respondents were allowed the option of selecting multiple categories that applied to them.

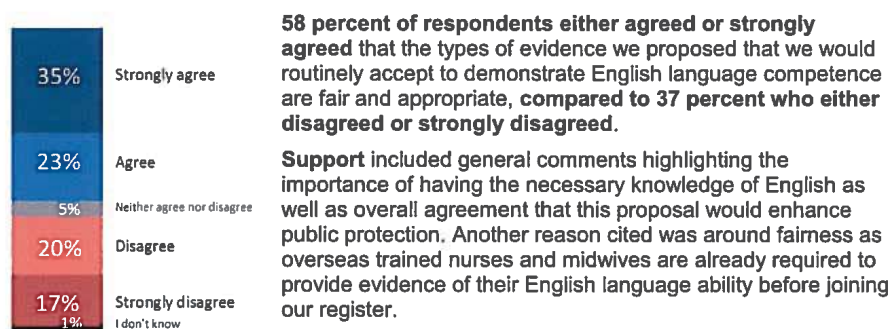
Summary analysis of consultation responses

The overall response to the consultation was positive, with the majority of respondents supporting all but one of our proposals. The exception was that marginally more respondents did not support the proposal that in fitness to practise cases where concerns are raised about insufficient English language skills, a nurse or midwife's score on a signed International English Language Testing System (IELTS) certificate would provide conclusive proof of the result achieved (question 7).

Breakdown of responses by question

English language requirements at the point of entry to the register for EEA trained nurses and midwives

Question 1: To what extent do you agree or disagree that the types of evidence (we propose to accept to demonstrate English language competence) are fair and appropriate?



Those who favoured using the IELTS test highlighted that this was a reliable, robust and well-established form of assessment. While supportive in principle, some respondents raised the need for a more flexible approach and stated that we should consider accepting other non-IELTS tests.

The majority of the **opposition** related to the use of IELTS as our choice of test. This was questioned on grounds that IELTS only evaluates an individual's academic knowledge of English and does not necessarily give an indication of competence in a clinical context. A number of respondents made specific reference to alternative tests which may provide the assurance that we require – such as the Canadian English Language Benchmark Assessment for Nurses (CELBAN)² and the nursing version of the Occupational English Test (OET)³, among others. Several respondents went further to suggest that we should develop our own language assessment.

Another common view expressed by those who disagreed was that the requirement of minimum score of 7.0 for each domain of the test (reading, writing, listening and speaking) was too high. However, there were overall mixed views on what the appropriate threshold for IELTS should be. A number of respondents wanted to see higher minimum scores

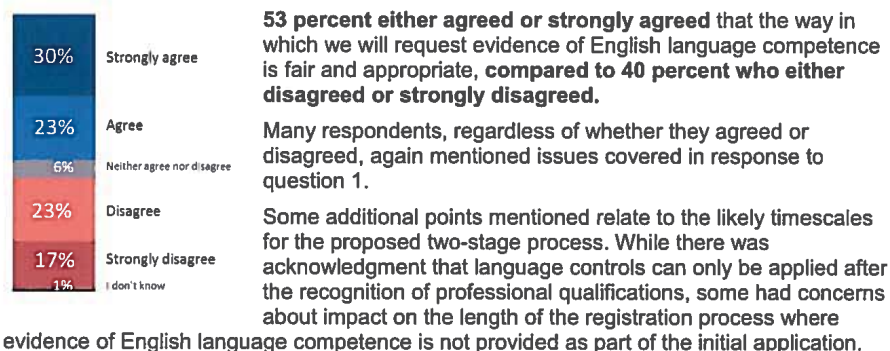
² <http://www.celbancentre.ca/>

³ <https://www.occupationalenglishtest.org/>

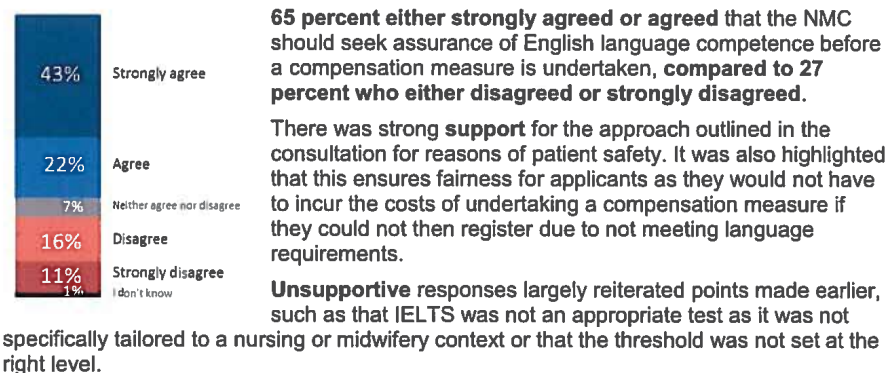
(overall and/or for the various individual components) and also pointed to the need for consistency with the levels required for the medical profession (set at an overall score of 7.5 with no one domain falling below a score of 7).

We have developed guidance on the types of evidence that European Economic Area (EEA) trained nurses and midwives can provide which are likely to satisfy the Registrar. However, the Registrar has discretion to determine the acceptability of any evidence provided by an applicant. We will use the criteria outlined in the consultation – that evidence must be recent, objective, independent and readily verifiable – to assess other forms of evidence. We are committed to regularly reviewing our evidence requirements to ensure they remain suitable.

Question 2: To what extent do you agree or disagree that the way in which we will request evidence (to demonstrate English language competence) is fair and appropriate?



Question 3: To what extent do you agree or disagree that we should seek assurance of language competence through a compensation measure before EEA nurses and midwives have access to patients and service users?

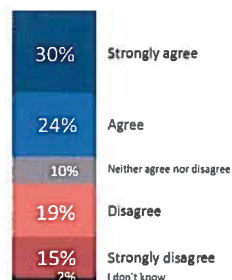


Specific comments included whether patient safety would be sufficiently protected by the assessment of an individual's language competence that employers who provide the

adaptation period undertake before the start of the adaptation period. One respondent felt that language skills fall under the banner of 'communication', which current compensation measures already address.

English language requirements at the point of readmission to the register

Question 4: To what extent do you agree or disagree with our approach concerning English language competence in relation to the readmission of a nurse or midwife to the register?



54 percent either agreed or strongly agreed with the proposed approach relating to readmission of a nurse or midwife to the register, **compared to 34 percent who either disagreed or strongly disagreed.**

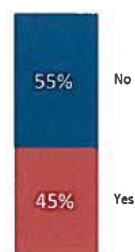
Most respondents provided positive comments in **support** of the factors we outlined in the consultation for when further evidence of English language competence will be sought at the readmission stage.

Opposition was generally linked to circumstances in which respondents felt it would not be fair to seek additional evidence, such as when a nurse or midwife had already demonstrated English language competence at the point of entry to the register

or had been practising without any concern. Some respondents were unsure about the detail of our proposals.

Among those who neither agreed nor disagreed, some concerns were raised about whether undertaking a return to practice programme would amount to sufficient evidence of English language competence. We do not anticipate that it will be necessary to collect significant amounts of additional evidence at the readmission stage. In the majority of cases, such as for those nurses and midwives needing to undertake a return to practice programme to be readmitted to the register, this will enable them to meet the evidence criteria. This will also be the case for all nurses and midwives who have completed their pre-registration training trained in the UK.

Question 5: Do you think that there are any other evidence sources that we should consider?

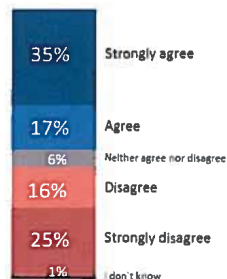


Respondents were asked to provide comments on additional sources of evidence that may provide assurance of a nurse or midwife's English language competence at the point of readmission.

Among the 45 percent of respondents who took the opportunity to suggest additional sources of evidence, the most often cited sources were face-to-face interviews. Employers were suggested as a useful means to seek assurance of English language competence. Other sources such as previous academic transcripts were also mentioned. Any evidence would need to be sufficiently robust and objective as well as demonstrate competence across the four domains.

New ground of impairment relating to English language competence

Question 6: To what extent do you agree or disagree that in cases where the Registrar directs a nurse or midwife to undergo a language assessment we should use the same test (IELTS) as required for initial registration?



52 percent either agreed or strongly agreed that IELTS should be used in cases where a nurse or midwife is asked to undertake a language assessment as part of our fitness to practise process, **compared to 41 percent who either disagreed or strongly disagreed.**

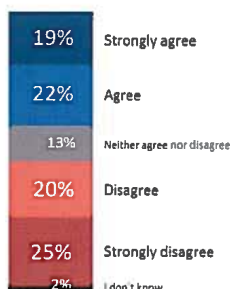
Most respondents expressed **support** on grounds that this would ensure consistency with the approach proposed for initial registration and readmission. There was some discussion that concerns about a nurse or midwife's language skills must be sufficiently serious to warrant a language assessment.

Several respondents wanted reassurance about decision makers' ability to make judgments consistently about when to direct a nurse or midwife to undergo an assessment of their English language knowledge. We will issue clear guidance for decision makers and fitness to practise panels to ensure all nurses and midwives are treated fairly.

Opposition was highest among those who objected to the use of IELTS in the first place. One additional issue raised was that where fitness to practise concerns are raised on language grounds. Unlike other types of cases for which the burden of proof lies with the NMC or whoever makes the allegation, the onus would be on the individual nurse or midwife to organise and fund an IELTS test.

Closely related to this, several respondents commented on the financial impact if a test would have to be arranged at the nurse or midwife's own cost and the need for parity with our approach to other assessments (such as performance or health assessments). It is worth noting that costs of language assessment directed by the Registrar as part of a fitness to practise investigation will be met by the NMC.

Some respondents stressed that language skills do not equal good communication skills and that reliance on an IELTS test may not provide sufficient assurance as far as wider communication skills issues are concerned. We agree with the points raised about broader communication skills. The proposed new powers will allow consideration of issues specifically relating to language skills in the wider context of effective communication skills.



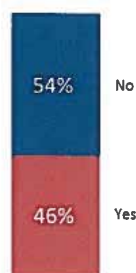
Question 7: To what extent do you agree or disagree that the result stated in the signed IELTS certificate or other document would provide conclusive proof of the result achieved by the nurse or midwife?

Just 41 percent either agreed or strongly agreed that a signed IELTS would be considered conclusive proof of achievement, compared to **45 percent who either disagreed**

or strongly disagreed. This was the only question in the consultation for which negative responses slightly outweighed the level of support.

Some of the **opposition** expressed was based, we believe, on a misunderstanding. The proposal was referring to the extent to which either the NMC or the applicant should be allowed to appeal an IELTS result. Instead, some of objections raised related to the potential for IELTS certificates to be forged and for impersonation to occur during an examination. As a safeguard, we already use the electronic verification system on the IELTS website as part of our processes to make sure that any certificates submitted to us are legitimate.

Question 8: Do you think that there are any groups who may be unfairly impacted by the changes that we outline in this document?



54 percent of respondents agreed that the proposed changes would not lead to detrimental impacts. Several in this group welcomed what they perceived as positive impacts in terms of the greater consistency that the proposals would bring between overseas trained nurses and midwives and their EEA trained counterparts.

46 percent suggested instead there may be detrimental impacts on certain groups. A few respondents highlighted what they predicted would be negative impacts in terms of the new more stringent requirements around English language potentially discouraging EEA trained nurses and midwives

from applying to work in the UK. It was also raised that nurses and midwives whose first language is not English will be at greater risk of concerns being raised regarding language competence. Further points made were that reasonable adjustments would need to be made for nurses and midwives with a disability.

Question 9: Please use the box below if you have any additional comments about the language competence of registered nurses and midwives, that have not been addressed in this consultation.

The majority of respondents used this opportunity to reiterate and summarise their previous responses.

Conclusions and next steps

We are grateful for the feedback from all those who took part in the consultation. We will carefully consider the findings of the consultation and our Council will make a decision at its meeting in October 2015 on how we are proposing to implement these new powers. Our overriding objective is to enhance public protection and these changes will provide a higher level of assurance that all registered nurses and midwives have the necessary knowledge of English.

Council

Policy for English language competence for the registration of nurses and midwives

Introduction

- 1 This policy sets out the parameters for Council's approach to publishing guidance for how nurses and midwives can demonstrate that they have the necessary knowledge of English to practise safely and effectively in the United Kingdom (UK).

Aims of the policy

- 2 The aim of this policy is to set out the legal basis and high level principles for:
 - 2.1 the English language requirements that must be met by UK trained applicants, European Economic Area (EEA) trained applicants that fall under Directive 2005/36/EC¹ and overseas trained² applicants before they can be registered;
 - 2.2 the English language requirements for all nurses and midwives seeking readmission to the Register following a lapse of their registration; and
 - 2.3 how concerns about language competence of nurses and midwives who are registered with the NMC will be processed.

Governance and approval history

- 3 This policy was approved by Council following public consultation at its meeting on 8 October 2015.

General principles in relation to language competence

- 4 In order to hold registration with the NMC, all nurses and midwives must satisfy the Registrar that they have the necessary knowledge of English to practise safely and effectively in the UK.³
- 5 Council will publish guidance detailing the process for satisfying the Registrar that nurses and midwives have the necessary knowledge of English.⁴
- 6 Applicants who have trained in the UK, having completed a pre-registration programme at an NMC approved higher education institution, will automatically

¹ Directive 2005/36/EC on the recognition of professional qualifications, as amended by Council Directive 2013/55/EU (The Directive)

² A nurse or midwife who has trained outside the EEA.

³ Article 9(2)(ba) of the Order

⁴ Article 5A(1) of the Order

satisfy the Registrar that they meet the English language requirements in accordance with the UK Registrations Policy.

- 7 EEA nurses and midwives wishing to register with the NMC must satisfy the Registrar that they have the necessary knowledge of English. Those who are unable to satisfy the Registrar in relation to language competence are not eligible for registration with the NMC.
- 8 Non-EEA trained applicants will be subject to the Council's requirements for registration, including English language competence, as articulated by the Overseas Registrations Policy, and as set out in published applicant information.

Legislative framework

- 9 Article 53 of the Directive establishes the legal basis for language controls for EEA trained nurses and midwives benefitting from the recognition of professional qualifications. It states that these controls must be proportionate and carried out after the recognition of a professional qualification, but before registration.
- 10 The Nursing and Midwifery Order 2001 (the Order) established the NMC and sets out its functions and powers. The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 (the Registration Rules)⁵ and the Nursing and Midwifery Council Fitness to Practise Rules (the Fitness to Practise Rules)⁶ are made using powers contained in the Order and prescribe our procedures in these areas.
- 11 Article 9(2) of the Order sets out who is entitled to seek admission to the register and the conditions that must be met.
- 12 Article 5A of the Order introduces a new power requiring the Council to publish guidance as to the necessary knowledge of English for EEA trained nurses and midwives. This must set out the evidence, information and documents for an applicant to provide to satisfy the Registrar that they have the necessary knowledge of English, and the process by which the Registrar will assess this evidence, information or documentation. Article 5A creates a new duty, requiring the Registrar to take account of this guidance when determining whether an applicant has the necessary knowledge of English.⁷
- 13 The necessary knowledge of English is defined as 'a knowledge of English which is necessary for safe and effective practice of nursing [or midwifery] in the United Kingdom'.⁸
- 14 Applicants must make a formal application for registration in the form and manner prescribed by Rule 5 of the Registration Rules. The NMC may not at the initial stage require evidence of the necessary knowledge of language from EEA trained nurses and midwives, however applicants may provide such evidence if they wish to. Should the Registrar not be satisfied that the applicant has the necessary

⁵ SI 2004/1767 (as amended)

⁶ SI 2004/1761 (as amended)

⁷ Article 5A(1) of the Order (as amended).

⁸ Schedule 4 of the Order

knowledge of English on the basis of their submitted application, further evidence will be requested through a formal language controls process.⁹

- 15 Should an EEA applicant not meet the language requirements on the basis of their initial application, the Registrar may not request further evidence, information or documents, until they have first notified the nurse or midwife that they have recognised their qualification. This notification must inform the nurse or midwife that by virtue of their qualification they are entitled to be registered in a part of the register subject to meeting any other requirements for registration.¹⁰
- 16 Article 5A(6) states that the Registrar may require the applicant to undergo an examination or assessment and provide evidence in respect to this examination or assessment.
- 17 If the applicant is an exempt person¹¹, the Registrar may only require the applicant to undergo an assessment if the Registrar has already requested and considered further evidence, in addition to any that may have been supplied as part of their initial application.¹²
- 18 Article 10(2) of the Order outlines the requirements that a nurse or a midwife must fulfill in order for the Registrar to grant renewal of registration.¹³ Article 10(2B) of the Order stipulates that the Council may make Rules with regards to ensuring the necessary knowledge of English at the point of renewal.
- 19 Article 10(4) of the Order stipulates the requirements for readmission to the Register. In such circumstances as prescribed¹⁴, the Registrar will grant readmission to the Register, if the nurse or midwife continues to meet the requirements of Article 9(2), including the necessary knowledge of English.
- 20 Article 37 of the Order sets out the rights of appeal that applicants and registrants have against the Registrar's decision.
 - 20.1 Article 37(1)(za) states that an applicant may appeal where the Registrar requires them to undertake a language assessment under this policy.
 - 20.2 Article 37(1)(zb) outlines the appeal right that an applicant has if the Registrar does not recognise their qualification.¹⁵

Guidance for EEA trained nurses and midwives

- 21 The requirements set out for nurses and midwives in the Council's guidance will be proportionate and justifiable. The guidance will be compliant with the relevant UK and EU Legislation, and have regard to case law from the Court of Justice of the EU.

⁹ Article 5A(4) of the Order

¹⁰ Article 5A(5) of the Order

¹¹ Schedule 4 of the Order

¹² Article 5A(7) of the Order

¹³ Other requirements for renewal are set out in Registration Rule 13.

¹⁴ Other requirements for readmission are set out in Registration Rule 15

¹⁵ Article 14 of the Order: This additional appeal right has been inserted to distinguish the EU-derived appeal right against the a decision of the NMC not to recognise a qualification, and the general appeal right that already exists in the Order where the Registrar refuses entry to the register

- 22 Any guidance published will be subject to a consultation under Article 3(14) of the Order and will be regularly reviewed to ensure that it continues to be fit for purpose.

Applications for registration from eligible EEA applicants

- 23 Nurses and midwives, who meet the requirements for recognition of their qualification in accordance with the Directive, must be sent a letter of recognition stating this.¹⁶ Language controls cannot be imposed, and a formal request for evidence of language competence cannot be made until this point.
- 24 Recognition of a qualification can only take place where an EEA trained nurse or midwife holds a qualification leading to automatic recognition¹⁷, meets the requirements for recognition via acquired rights¹⁸, or holds a qualification that meets the NMC's requirements following recognition in accordance with the principles of the general system¹⁹ for the recognition of training.

Criteria for assessing language competence

- 25 In order for the Registrar to be satisfied that an applicant has the necessary knowledge of English to practise safely and effectively in the UK, they must demonstrate competence in the four areas of:
- 25.1 reading;
 - 25.2 writing;
 - 25.3 listening; and
 - 25.4 speaking.
- 26 Where evidence or information is requested, the evidence must:
- 26.1 be recent, objective and independent;
 - 26.2 clearly demonstrate that a nurse or midwife can read, write, interact and communicate with patients, service users, relatives and healthcare professionals in English; and
 - 26.3 be readily verifiable by the NMC.

¹⁶ This will apply to nurses and midwives meeting the requirements for automatic recognition under article 21 and annexe V of the Directive, and to general system applicants who are judged to meet the minimum UK education requirements for recognition of their qualification

¹⁷ Meaning a qualification as a nurse responsible for general care (adult nurse) listed in Annex V, point 5.2.2 or as a midwife listed in Annex V, point 5.5.2 of the Directive

¹⁸ In accordance with Articles 23, 33 and 43 of the Directive

¹⁹ Articles 10 to 14 of the Directive, including applicants who have successfully completed a period of adaptation or an aptitude test

Evidence that we will accept

- 27 With the above criteria in mind, the following types of evidence for demonstrating that EEA trained nurses and midwives have the necessary knowledge of English will be accepted:
- 27.1 The applicant demonstrates that they have achieved the required scores in the academic version of the IELTS²⁰ test, which will be a minimum overall score of 7.0 and at least 7.0 in each of the four areas. The IELTS test result should be no more than two years old at the time of making an application for registration.
 - 27.2 The applicant holds a pre-registration primary nursing or midwifery qualification which was taught and examined in English, and which was composed of 50 percent clinical interaction. At least 75 percent of the clinical interaction with patients, service users and other healthcare professionals as part of the programme must have been conducted in English.
 - 27.3 The applicant has been registered and practised for two years in a country where the first and native language is English in instances where they were required to pass a language assessment for registration in that country.
- 28 The Registrar will be able to consider other evidence of having the necessary knowledge of English. However that evidence must meet all of the principles set out in paragraphs 25 and 26.
- 29 Guidance for EEA trained nurses and midwives issued by the Council will provide further information about the evidence that will satisfy the Registrar as well as the process that applicants will follow.

EEA applicants who are required to complete a language assessment

- 30 In accordance with article 5A(6) of the Order, if a nurse or midwife informs the NMC that they do not possess evidence of having the necessary knowledge of English or the evidence that they supply does not meet NMC requirements, then the Registrar may as a further step require them to undertake a language assessment, as a condition of registration.
- 31 The assessment that the Registrar will require will be the academic version of the IELTS test, with a minimum overall score of 7.0 and at least 7.0 in each of the four areas of reading, writing, listening and speaking.

If a concern about language competence is raised whilst a nurse or midwife is on the register

- 32 Article 22(a)(iva) of the Order stipulates the necessary knowledge of English as a new ground for impairment of an individual's fitness to practise. Article 28A(1) of the Order gives Council the authority to make Rules requiring an individual who

²⁰ The International English Testing System (IELTS)

has had an allegation made against them, to undertake an examination or other assessment of their knowledge of English.

- 33 If the NMC receives an allegation that a registered nurse or midwife does not have the necessary knowledge of English and as a result their fitness to practise may be impaired, then this will be treated as an allegation that will be dealt with via the Fitness to Practise process.
- 34 Where a nurse or midwife is in contact with the NMC, and as part of this interaction it becomes apparent that their English language capabilities come into doubt the registrant may be referred into our Fitness to Practise processes by the Registrar.²¹ Such a case will be dealt with in the same way as any other allegation of impaired fitness to practise.

Readmission to the register

- 35 Where a nurse or midwife's registration has lapsed, they may apply to the Registrar to be readmitted to the register.²²
- 36 All nurses and midwives seeking readmission to the register must meet the readmission requirements, including having the necessary knowledge of English and the registration requirements.²³
- 37 Information published by the NMC will set out the requirements and evidence for how a nurse or midwife will satisfy the Registrar that they have the necessary knowledge of English. Where an applicant meets these requirements and all other readmission requirements²⁴, the Registrar will re-admit them to the register.

Rights of appeal

- 38 Article 37 of the Order sets out the decisions of the Registrar that a registrant can appeal. Applicants have the following rights of appeal under the following circumstances:
- 38.1 Where the Registrar makes the decision that they are not satisfied that a nurse or midwife has the necessary knowledge of English and are required to undertake an examination or assessment;²⁵ and
- 38.2 Where the Registrar makes the decision that they are not satisfied that the applicant's qualification meets the requirements for recognition under the provisions of the Directive;²⁶
- 39 Appeals will be considered in accordance with the NMC's appeals policy.

²¹ Article 22(6) of the Order

²² Article 10 of the Order and Registration Rule 15

²³ Article 9(2) of the Order

²⁴ Article 10(4) of the Order

²⁵ Article 37(1)(za) of the Order

²⁶ Article 37(1)(zb) of the Order

Council

Providing evidence of English language competence: Guidance for EEA trained nurses and midwives

Introduction

- 1 Nurses and midwives play a vital role in the provision of healthcare in the United Kingdom (UK). As a registered nurse or midwife it is your responsibility to make the safety and wellbeing of those in your care your primary concern. A key part of this is communication, and the need to be able to communicate clearly and effectively in English.
- 2 For this reason, in order to hold registration with the Nursing and Midwifery Council (NMC), you must first satisfy us that you have the necessary knowledge of English.¹ This means, 'a knowledge of English which is necessary for the safe and effective practice of nursing or midwifery in the United Kingdom'.²
- 3 Our legislation, the Nursing and Midwifery Order 2001 (the Order) gives the NMC's Registrar the power to seek evidence or information about a person's knowledge to make sure that they can practise safely and effectively in the UK.
- 4 In accordance with Article 5A(1) of the Order, the Council will publish guidance for European Economic Area (EEA) trained nurses and midwives applying for registration with the NMC.³
- 5 This guidance will detail the evidence, information or documents applicants must provide as evidence they have the necessary knowledge of English, as well as the process which will satisfy the Registrar of this. In doing this the Registrar must take account of the guidance published in this document when deciding whether a nurse or midwife has demonstrated the necessary knowledge of English.

Background

- 6 If you were trained as a nurse or midwife in the EEA and you meet certain requirements you can apply to us to have your qualification recognised and

¹ Article 9(2)(ba) of the Order

² Schedule 4 of the Order

³ For the purposes of this document the term, "EEA trained nurse or midwife" refers to a nurse or midwife who has undertaken their pre-registration qualification inside the EEA and is:

- A national of a relevant European state (meaning the European Economic Area or Switzerland) other than the UK;
- a national of the UK who is seeking access to, or is pursuing, the profession by virtue of an enforceable Community right; or
- A person who is not a national of a relevant European state but who is, by virtue of an enforceable Community right, entitled to be treated, for the purpose of access to and pursuit of the profession, no less favourably than a national of a relevant European State

registered. The process for this is set down in European Union (EU) law.⁴ However, as part of our recognition and registration application process, you will need to prove to us that you have the necessary knowledge of English.

- 7 Our core guidance *The Code: Professional standards of practice and behaviour for nurses and midwives* (the Code) contains the professional standards that as a registered nurse or midwife working in the UK you must uphold. Paragraph 7.5 of the Code states that you must 'be able to communicate clearly and effectively in English'.

When we will request evidence of knowledge of language

- 8 This section describes how and when we will request evidence or information to determine whether you have the necessary knowledge of English, and the process we will follow.
- 9 There are a number of opportunities for you to demonstrate your English language competence⁵:
- 9.1 If we have confidence in your English language competence on the basis of the information that you initially supplied in your application, we will not request further evidence or information;
 - 9.2 If we have concerns about your English language competence, we will request and consider further evidence or information; or
 - 9.3 If concerns remain after you have provided further evidence or information, or if you are unable to provide any evidence, we will ask you to undertake a language assessment before we can register you.
- 10 If your nursing or midwifery qualification meets the requirements for automatic recognition under EU law⁶, but we do not have confidence in your English language competence on the basis of your initial application, we will still recognise your qualification. We will write to you informing you of this and provide you with an opportunity to provide evidence of your language competence before you can progress on to registration.
- 11 If your application is being assessed via the EU general system provisions⁷ and we decide that your qualification does not meet our minimum requirements we will require you to undertake a period of adaptation or an aptitude test. Once you have successfully completed the adaptation period or aptitude test, we will recognise your qualification. We will write to you informing you of this and provide you with

⁴ Directive 2005/36/EC on the recognition of professional qualifications (the Directive) as amended by Council Directive 2013/25/EU

⁵ By English language competence, we mean the necessary knowledge of English as set out in Paragraph 2.

⁶ If you are a nurse responsible for general care (adult nurse) or a midwife and you hold a qualification listed in Annexe V of the Directive, based on the requirements outlined in articles 21 and 40 of the Directive.

⁷ Articles 10 to 14 of the Directive

an opportunity to provide evidence of your language competence before you can progress on to registration.

Factors we will take into account when requesting evidence of the necessary knowledge of English language

- 12 On receiving your application, we will review the information you have provided, and based on that, may ask for further information or evidence in relation to your knowledge of English.
- 13 If you have a pre-registration primary nursing or midwifery qualification that was taught and examined in English⁸, we are not likely to request further evidence from you.
- 14 We are likely to ask for further evidence or information if you do not hold a qualification from an EEA state that has been taught and examined in English, or if you have not submitted any of the other evidence outlined in this document.

Criteria for assessing language competence

- 15 Our criteria for assessing evidence and information in relation to knowledge of English are set out below. The criteria reflect our objective of enhancing patient safety and provide us with adequate assurance that you have the necessary knowledge of English before we can register you.
- 16 Should you be requested to provide evidence of the necessary knowledge of English, you must demonstrate competence in the four areas of:
 - 16.1 reading;
 - 16.2 writing;
 - 16.3 listening; and
 - 16.4 speaking.
- 17 Where evidence or information is requested, we will consider the received evidence against the following criteria:
 - 17.1 whether the evidence is recent, objective and independent;
 - 17.2 whether it clearly demonstrates that you can read, write, communicate and interact with patients, service users, relatives and healthcare professionals in English; and
 - 17.3 whether we can readily verify the evidence.

⁸ By 'taught and examined in English', we mean that the entire course be taught and examined in English. The course must have been composed of 50% clinical interaction, where at least 75% of this clinical interaction with patients, service users, families and other healthcare professionals was undertaken in English.

Types of evidence that we are likely to accept

- 18 There are different ways in which you may be able to demonstrate that you have the necessary knowledge of English to practise in the UK. The Registrar has the power to exercise discretion and consider all types of credible evidence which meet the criteria set out above.
- 19 We will review our English language evidence requirements on a regular basis to ensure they remain suitable. We will give full consideration to new sources of evidence that can provide the required assurance that you have the necessary knowledge of English.
- 20 However, based on our experience in assessing language evidence from international nurses and midwives trained outside the EEA, we have set out the types of evidence we accept can demonstrate that you have the necessary knowledge of English to practise in the UK.

Evidence type 1: A recent⁹ overall score of 7 in the academic version of the International English Language Testing System (IELTS). You must achieve no less than 7 in each of the four areas of reading, writing, listening and speaking.

- 21 The majority of nurses and midwives who have to demonstrate their knowledge of English currently do so by achieving the required scores in the academic version of the IELTS tests. IELTS is an objective method of demonstrating competence in English and is widely accepted by many employers, regulators and professional bodies.
- 22 We may accept an IELTS score of at least 7 that is older than two years old, if you can provide evidence to demonstrate that your language skills have not deteriorated in that time. Evidence that we may accept includes, having subsequently completed a recent postgraduate course of study which has been taught and examined in English¹⁰, or evidence that you have subsequently practised as a nurse or midwife in a country where English is the first and native language¹¹.

⁹ By 'recent', we mean evidence relating to English language competence that is less than two years old at the point of making an application to the NMC. The British Council advises that two years is the accepted period for an individual to remain proficient in English if the language is used regularly. Proficiency in English deteriorates after two years if it is not used on a regular basis.

¹⁰ See footnote 5

¹¹ Our list of countries is modelled on the UK Border Agency's list of 'majority English speaking countries' (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340583/English_language_v11.0_EXT.pdf). We maintain and update our list on a regular basis. When we are advised that a country's first and native language is English, we contact the relevant Ministry of Health and the nursing and midwifery regulator to seek evidence of this.

Evidence type 2: A recent¹² pre-registration nursing or midwifery programme that has been taught and examined in English¹³ in an EEA state

- 23 We require that the course must be taught and examined in English.¹⁴ The course must have been composed of at least 50 percent clinical interaction. At least 75 percent of the course's clinical interaction with patients, service users, their families and other healthcare professionals must have taken place in English.
- 24 We need to ensure that the training that you have undertaken provided you with an opportunity to demonstrate ability in reading, writing, speaking and listening in a range of environments.

Evidence type 3: Registration and two years of registered practice with a nursing or midwifery regulator in a country where English is the first and native language¹⁵ and a language assessment was required for registration.

- 25 We will contact the nursing or midwifery regulatory authority of the country in which you were registered, to find out which language examination or assessment was used and their requirements before accepting this evidence.
- 26 In circumstances where the regulatory authority operates a different standard of language test than the NMC, or we are unable to verify the results, we may ask nurses or midwives to provide additional evidence to demonstrate their knowledge of English. This may include achieving our required scores in the academic version of IELTS.
- 27 We may require employment references from each of your employers over the previous two years confirming that the practice that you undertook was in English.

Other evidence

- 28 The Registrar may accept other forms of evidence at their discretion. This evidence must meet our criteria as outlined in paragraphs 16 and 17.

¹² See footnote 8

¹³ See footnote 7

¹⁴ See footnote 7

¹⁵ See footnote 10

