English language consultation

NMC consultation – NHS Providers response

Note: a number of questions throughout this consultation require a score on a scale of one to seven, one indicates 'strongly disagree' and seven indicates 'strongly agree', unless otherwise stated.

Employer references

Please tell us the extent to which you agree or disagree with the following elements of our proposals:

- *Accepting employer references as supporting evidence for those missing scores by 0.5 or half a grade as relevant. (Scale 1 – 7)*
  7
- *Accepting employer references as supporting evidence for those trained in English but in a non-majority English speaking country. (Scale 1 – 7)*
  7
- *Applicants using an employer reference must have worked for at least one year within the last two years in non-registered practice in a health and care setting in the UK. (Scale 1 – 7)*
  2
- *Referees must work at the same organisation, be a NMC registrant and in a leadership role. (Scale 1 – 7)*
  3
- *A senior registrant, also at the same employer, must countersign the reference. (Scale 1 – 7)*
  3

If we were to accept employer references, how could we ensure that they consistently provided appropriate evidence of an applicant's ability for safe clinical interaction in English?
No response

Do you have any other thoughts that you would like to share about the proposals on the role of employer references as evidence for English language proficiency?
NHS Providers is strongly supportive of proposals to accept employer references as supporting evidence for applicants who miss test scores by 0.5 or half a grade, and for applicants who have trained in English in a non-majority English speaking country. We feel these are both proportionate proposals that increase flexibility without compromising safety and allow for appropriate nuance in

cases where qualified and capable registrants have narrowly missed the required English language testing score. This is particularly important in the context of high reliance on international recruitment in the NHS, as shown by recent NMC registration data highlighting a 23.1% increase in registrations from outside the EU/EEA since 2020/21[1].

It is unsustainable to continue this degree of reliance on international recruitment in the long term, without a sustainable plan and appropriate funding to ensure an equally strong domestic professional pipeline. NHS Providers remains supportive of sustainable and ethical international recruitment in the short and long term, but this must be in tandem with a sustainable domestic plan, which will take time to develop and implement. The Health Foundation estimate a shortfall of 46,200 to 63,900 full-time equivalent (FTE) nurses by 2023/24, dependent on a number of factors including government policy changes and the success of recruitment and retention schemes. By 2030/31 the demand/supply gap, if current policy remains unchanged, could be 30,300 FTE nurses, while the worst-case scenario could see a shortfall of 140,600 FTE nurses. The optimistic outlook for 2030/31 could see a surplus of 44,400 FTE nurses in the NHS, but this would require a fully costed and funded workforce plan[2].

We would argue that English language test score requirements remain disproportionately high, particularly when candidates take the international English language testing system (IELTS) 'academic' test instead of the clinically-focused occupational English test (OET) – with evidence of native English speakers failing to reach the scores required for registration for a number of years[3]. There is further evidence of this within the most recent official IELTS data, which demonstrates candidates reporting English as their first language when taking the 'academic' test score a mean of 6.7 on the reading domain (NMC required score: 7.0), 6.2 on the writing domain (NMC required score: 6.5) and 6.9 overall (NMC required score: 7.0). When filtered by nationality, only candidates from Germany and Greece attain a mean overall score of 7.0 or higher[4]. In this light, we would suggest there is scope for a review of the overall score required when registrants take the IELTS test, as covered in our response to this question below.

We support the proposal to use employer references for applicants who have trained in English in a non-majority English speaking country due to the fact that the current Home Office list utilised by the

[1] NMC, registration data 1 April 2021 – 31 March 2022: https://www.nmc.org.uk/globalassets/sitedocuments/data-reports/march-2022/nmc-register-march-2022.pdf

[2] Health Foundation, NHS workforce projections 2022, July 2022: https://www.health.org.uk/publications/nhs-workforce-projections-2022

[3] Guardian, 'Difficulty of NHS language test worsens nurse crisis, says recruiters', 24 June 2017: https://www.theguardian.com/society/2017/jun/24/english-speaking-ovserseas-nurses-fail-nhs-too-tough-language-test

[4] IELTS, test taker performance 2019: https://www.ielts.org/for-researchers/test-statistics/test-taker-performance

NMC is restrictive, omitting a number of countries that have large English-speaking populations or health and social services that are accessed by international, English speaking service users.

For the three remaining proposals in this section, there are elements of each that we disagree with, which seem overly prescriptive. We do not feel that applicants providing an employer reference as supplementary evidence should also have to have worked in the UK for at least one year in the last two – as outlined above, there are health care systems internationally in non-majority English speaking countries that cater to international service users in English.

Regarding proposals that the referee must work at the same organisation and be an NMC registrant, we somewhat disagree with these proposals as they are overly rigid. We would suggest that a referee should be registered with any health and social care professional regulator in the UK or with a recognised and equivalent health and social care regulator internationally. Furthermore, we feel that the requirement for a referee to work at the same organisation is misaligned with the ethos of system working and of 'one workforce' within the NHS – particularly in light of integrated care systems (ICSs) being recently placed on a statutory footing on 1 July 2022. It is much more prescriptive than the approach used for general referencing when individuals move roles, or apply for a new role. Additionally, we do not feel that this requirement accounts for outsourced or contracted staff, nor for smaller organisations outside of the NHS that work in partnerships. In these cases, the most appropriate referee may not work for the same organisation as the applicant but may still be the most appropriate referee with experience of the applicant's English language capability. We agree with the proposal that the referee should be in a leadership role but would suggest this definition is not overly prescriptive in calling for senior or director level staff to be signatories – the most important thing is that any referee is reliable and can vouch for the applicant's language capability. We are however supportive of the requirement for a countersignature, and the recognition of this as a mitigation against potential bias in the accompanying equality impact assessment.

NHS Providers' view overall, however, is that these changes do not go far enough to remove barriers to the registration of highly qualified and competent international applicants. While we note and appreciate the NMC's duty to patient safety and ensuring English language competency, we also note the risk to patient safety as a result of unsafe staffing levels and staffing shortages.

The current proposal is based on using employer references as supporting evidence for candidates alongside other factors (for example, training in a non-majority English speaking country). How comfortable would you feel if employer references (as detailed earlier in this section) were used alone as proof of English language competence? (Scale 1 – 7, one indicating 'very uncomfortable' and seven indicating 'very comfortable')

2, 'somewhat uncomfortable'

On employer references being accepted as sole proof of English language proficiency, we have noted we would be 'somewhat uncomfortable' with this proposal. We take this view as we feel that the above proposals offer nuance and flexibility when utilised as supplementary evidence, but we would be concerned at the prospect of employer references solely replacing testing at this stage. We are also of this view as employer references, if introduced, will require a period of testing and implementation to ensure the appropriate guidance for registrants and referees are in place. Employer references accepted for emergency registration during the COVID-19 pandemic will also provide data for designing the processes for the implementation of this change. We would further suggest a review after an initial implementation period would be appropriate before revisiting this question in the future.

Post-graduate qualifications

Please tell us the extent to which you agree or disagree with the following elements of our proposals:

- *Accepting post-graduate qualifications taught and examined in English as supporting evidence for those missing scores by 0.5 or half a grade as relevant. (Scale 1 – 7)*
  7
- *Accepting post-graduate qualifications taught/examined in English as supporting evidence for those trained in English but in a non-majority English speaking country. (Scale 1 – 7)*
  7

Do you have any other thoughts that you would like to share about the proposals on the role of post-graduate qualifications as evidence for English language proficiency?

We are strongly supportive of the above two proposals regarding postgraduate qualifications and would go further to support these being accepted as sole evidence for English language competency, irrespective of whether the qualification is in the field of nursing or midwifery. The additional cost and time burden of an English language test is a barrier to registration for a prospective qualified registrant who holds a postgraduate qualification taught and accessed in English – for this reason we have also stated we are 'comfortable' with the proposal outlined in the question below. Such postgraduate qualifications demonstrate a specific level of competency, both academically and linguistically.

The current proposal is based on using post-graduate qualifications as supporting evidence for candidates alongside other factors (for example, training in a non-majority English speaking country). How comfortable would you feel if post-graduate qualifications outside the disciplines of nursing and

midwifery that are taught and examined in English were used alone as proof of English language competence? (Scale 1 – 7, one indicating 'very uncomfortable' and seven indicating 'very comfortable')
6, 'somewhat comfortable'

Test combining and scores

Please tell us the extent to which you agree or disagree with the following elements of the proposal:

- *Extending the period someone can combine test scores from 6 to 12 months. (Scale 1 – 7)*
  7
- *Standardising the minimum score accepted across sittings to be no more than 0.5 below the required score for all language domains when combining test scores on IELTS (minimum score for reading, speaking and listening when test combining = 6.5; minimum score for writing when test combining = 6). (Scale 1 – 7)*
  7
- *Standardising the minimum score accepted across sittings to be no more than half a grade below the required score for all language domains when combining test scores on OET (minimum score for reading, speaking and listening when test combining = C+; minimum score for writing when test combining = C). (Scale 1 – 7)*
  7

We don't propose changing the overall score we require for language tests. Can you please tell us the extent to which you agree or disagree with the following:

- *Maintaining an overall pass score of 7 on IELTS. (Scale 1 – 7)*
  2
- *Maintaining an overall pass score of 'B' on OET. (Scale 1 – 7)*
  4

Do you have any other thoughts that you would like to share about the proposals on IELTS and OET English language proficiency test score acceptance thresholds?

We are strongly supportive of the suggested changes outlined above, including extending the time period for test combining to 12 months and the standardisation of minimum scores across test sittings. These are small changes, which add nuance and flexibility, to ensure qualified and competent registrants do not face arbitrary barriers to their registration.

NHS Providers welcomed the 2018 reduction in the IELTS writing domain score to 6.5[5]. As outlined in our responses above, data from IELTS shows that those who speak English as a first language score lower in the writing and reading domains, while there is evidence that those with English as a first language struggle to achieve the scores requested as part of the registration process. It is important to note that the IELTS test is not tailored for clinical situations, with the written domain specifically asking for the applicant to write a short essay or letter on a generic, non-clinical topic. For these reasons, we would support a review of the overall required score for the IELTS test, and indeed the testing methodology more broadly. In this context, we note the Home Office requirement for applicants for indefinite leave to remain, British citizenship and the health and care worker/skilled worker visa to ascertain a B1 on the common European framework of reference for languages (CEFR), equivalent to a 4-5 on the IELTS scoring matrix[6,7,8]. This score may not be deemed appropriate for professional regulation but does suggest there is a gap to bridge between immigration service requirements and those of professional regulators. Particularly as this creates a discrepancy for health and care worker visa applicants. B2 on the CEFR is, for example, equivalent to 5.5 to 6.5 for IELTS and C to C+ for OET[9,10]. A review conducted by the NMC demonstrates there are other regulators domestically and internationally who accept lower minimum IELTS domain and overall scores[11].

As part of this consultation and engagement process, the NMC has conducted a review of the OET scores required as part of the registration process. As this test is tailored towards clinical professions, we feel that this pass mark is more appropriate, but there remains some room for change as outlined in the OET review commissioned by the NMC as part of this consultation process, and this is reflected in our score for the previous question. The literature review conducted as part of the consultation also demonstrates that some international regulators accept lower OET scores across a number of domains[12].

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[5] NHS Providers, press release, Proposed changes to English language test welcomed by trusts, 22 November 2018: https://nhsproviders.org/news-blogs/news/proposed-changes-to-english-language-test-welcomed-by-trusts

[6] Gov.uk, prove your knowledge of English for citizenship and settling: https://www.gov.uk/english-language

[7] Gov.uk, health and care worker visa – knowledge of English: https://www.gov.uk/health-care-worker-visa/knowledge-of-english

[8] IELTS, IELTS in CEFR scale: https://www.ielts.org/about-ielts/ielts-in-cefr-scale

[9] Ibid

[10] OET, new report shows how OET compares to international standard of English language ability: https://www.occupationalenglishtest.org/oet-benchmarked-to-cefr/

[11] NMC, English language consultation literature review: https://www.nmc.org.uk/globalassets/sitedocuments/english-language-consultation/nmc-literature-review.pdf

[12] Ibid

Should the standards we set for English Language proficiency be the same across the three professions the NMC regulates? (Yes/No/Don't know)

Yes

We are committed to treating everyone fairly and meeting our legal responsibilities under the Equality Act 2010 and related legislation in Northern Ireland. Considering what you have read today, would you like to share any thoughts about how these proposals could impact individuals based on their protected characteristics?

We welcome the considerations outlined in the equality impact assessment, in particular the broader definitions outside of the statutory requirements of the Equality Act 2010, to include socio-economic background, geography and dialect. We also welcome an acknowledgement of the need for mitigations to ensure employer references are not affected by potential bias. We would note that the high scores required on English language tests, in the face of evidence that native English speakers do not routinely achieve these same scores, has the potential to create bias, while the requirement for international registrants to sit English language tests is an additional cost burden that may disadvantage applicants with protected characteristics.

Is there anything else that you would like to share about English language proficiency and the proposals shared by the NMC that you have not been able to so far?

As referenced in our earlier responses, while we welcome this consultation process and many of the changes proposed, it is disappointing that these proposals do not go far enough to remove additional burden on applicants and their future employers. In our submission to the Health and Social Care Select Committee's inquiry on workforce recruitment, training and retention, we noted that our members tell us of their concern at "overly burdensome" processes, which, in some cases, results in applicants withdrawing their application[13].

At a time when the NHS has extreme workforce pressures, with over 105,000 vacancies, of which almost 39,000 are for registered nurses, overly prescriptive regulations that block highly qualified and competent international applicants from joining the registered nursing, midwifery and nursing associate workforces are disproportionate[14]. While these regulations are rightly intended to reduce the risk to patient care – they have the potential to do the opposite, by potentially maintaining or

[13] NHS Providers, submission, Health and Social Care Committee inquiry on Workforce: recruitment, training and retention in health and social care, 13 January 2022: https://nhsproviders.org/resources/submissions/nhs-providers-submission-to-the-health-and-social-care-committee-inquiry-on-workforce-recruitment-training-and-retention-in-health-and-social-care

[14] NHS Digital, vacancy statistics England April 2015 – March 2022: https://digital.nhs.uk/data-and-information/publications/statistical/nhs-vacancies-survey/april-2015---march-2022-experimental-statistics

increasing the aggregate risk to high quality service provision and patient care, given the barriers they present to filling critical workforce gaps.

We welcome the NMC's engagement on these changes with key stakeholders across health and social care sector. We would be supportive of further changes to regulations around English language requirements, including action to review:

- The requirement for internationally qualified applicants to submit evidence of an English language test if they have been working in the UK for five years, particularly if they have successfully applied for indefinite leave to remain or British citizenship as this requires an English language test at CEFR B1 or above (equivalent to IELTS 4-5)
- The list of majority English speaking countries in collaboration with the Home Office
- Whether applicants need to take the entire IELTS or OET test again instead of being able to re-sit the module or domain in which they have not attained the required score. This would reduce the cost burden to applicants, or employers where they are covering these costs.

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