European and External Relations Committee  
The EU referendum and its implications for Scotland  
Written submission from the Royal College of Nursing

[This] submission [was made to the] to the House of Commons Scottish Affairs Select Committee Inquiry: Scotland’s Place in Europe.

The Royal College of Nursing

The Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world, with a membership of more than 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

Background

The RCN is committed to ensuring that the nursing voice continues to be heard on a wide range of national and international nursing issues. The RCN will continue to work closely with our sister nursing organisations across Europe as we have done for many years.

Health and social care services across the UK depends on the contribution of nurses from the European Union (EU). It is important they continue to feel valued as we enter this period of uncertainty.

EU policies and legislation impact on policy issues that directly impact on nurses’ working lives, such as employment rights; equal opportunities; health and safety at work; and environmental and consumer protection. As an EU member country, we are also part of a system for recognising nurses’ qualifications, which allows UK nurses to practice in other European countries, allows EU nurses to work in the UK and lays down common minimum standards for nursing and midwifery education across the EU.

The potential issues for UK nursing are outlined below.

Free movement of professionals and mutual recognition of qualifications

There are issues, in particular, around the processes and minimum standards outlined in the Professional Qualifications Directive for recognition of registered nurses and midwives. It is unclear whether the UK regulators would continue to use the same standards and requirements once we were are no longer part of the EU. It could also potentially impact on recognition of UK nurses in other EEA countries.

The Professional Qualifications Directive also sets the legislative framework for recognition of certain health professional qualifications, and if we left the EU, this would likely cease and have to be renegotiated. UK healthcare staff, including
nurses and midwives, would not necessarily have their qualifications acknowledged in other European countries, and the UK may not necessarily be able to accept the qualifications from overseas workers wanting to work in the NHS and elsewhere.

Free movement of people and EEA nationals working in health and social care

There are 33,000 EEA nationals registered with the Nursing and Midwifery Council (NMC).

The NHS Confederation warned that the vote to leave the UK could cause staff shortages in the NHS: “The uncertainty created about our ability in future to recruit from other EU countries is also worrying NHS leaders, given current staff shortages in some professions and some local areas. We have an immediate and pressing need for clinical staff which cannot be met from our domestically trained market.”

The report added: “There is also concern about what leaving the EU will mean for the NHS’ ability to recruit the best international candidates to support its world-leading clinical practice, research and education. We note too that a similar and most likely higher proportion of the social care workforce is from other EU countries; if social care struggles to deliver services then demand for NHS care will increase further still.”

A recent report from the IPPR said that the NHS could not cope without the contribution of EU nationals: “In recognition of the contribution that EU nationals make to the National Health Service, and the need to keep them in their roles in order to ensure the continued functioning of the NHS, we recommend that the government makes a particularly generous citizenship offer to NHS workers. Without them, the NHS would collapse. It is critical to public health that these workers do not seek jobs elsewhere.”

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

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

In addition to the 33,000 EEA nationals registered with the NMC, there will also be non-registered health and care workers currently in the UK. It is unclear how many there are and what their rights to remain will be, post-Brexit, so clarity from the UK government will be needed on the rights of these existing EU nationals working in the healthcare sector.

There is also concern about what leaving the EU will mean for the NHS’ ability to recruit the best international candidates to support its world-leading clinical practice, research and education.
The implications on the workforce of the vote to leave the EU will need careful management, including both adapting future healthcare workforce planning and training and ensuring long-term migration policy meets the needs of health and social care sector. Clarity from the UK government will be needed on how to achieve this.

**Reciprocal arrangements for patients in the EU and cooperation on health services**

There are currently reciprocal arrangements for emergency care and elective treatment across the EU for EEA citizens, including cooperation between some health services across borders. It is not clear whether these would remain as part of any bilateral arrangements.

**EU employment legislation**

Membership of the EU provides all citizens of member states with a number of social and employment rights, including protection afforded to nursing staff from employment legislation such as the Working Time Directive, collective redundancy and **Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**, as well as health and safety at work legislation.

Membership of the EU is not necessarily essential for the continuation of these rights, but the EU has promoted this agenda over several decades.

EU citizens have also benefitted from the extension of social and employment rights through the establishment of minimum standards across the EU. Following agreement of the Treaty of Amsterdam in 1997, the EU Treaties have enshrined principles relating to non-discrimination in the areas of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 TFEU). As a result, the EU has developed comprehensive legislation in the area of non-discrimination and equality.

EU citizens are also guaranteed the right to equal treatment with European legislation providing for minimum standards, for example in relation to employment and, in some cases (including racial or ethnic origin and gender), in access to goods and services.

Articles 151 to 161 of TFEU provide a legal basis for all EU action in the area of social policy. For instance, Article 153 of the TFEU gives the EU legislative competence to set minimum standards in areas such as health and safety, working conditions, social security and social protection of workers and informing, and consultation of workers.

Through this competence, the EU has adopted legislation covering health and safety for fixed-term and temporary workers (1991); informing employees about their employment conditions (1991); parental leave (1992); working time (1993); young workers (1994); European Works Councils (1994); posted workers (1996); and agency workers. (UK Government 2014).

It is unclear whether these rights will be affected once the UK leaves the EU.
Public health

The EU Treaty requires that “a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities” including internal market legislation. This has impacted on nursing, particularly public health nursing, in a number of areas, including tobacco control, standards for blood and blood products, medical devices and collaboration on major communicable disease threats. The UK has been a key stakeholder in a range of public health measures, but it is unclear how collaboration on these issues will continue.

The NHS could potentially lose out on other practical elements that it currently gets from the EU. The EU public health strategy, for example, Together for Health, supports new technologies for health care and disease prevention. It is unclear what would replace the EU public health strategy.

Conclusion:

The vote to leave the UK has caused uncertainties in a number of key areas that could potentially impact on the health and social care sector including free movement, employment legislation and public health.

In particular, the NHS and social care sector in Scotland is significantly reliant on the free movement of nursing and care staff from within the EU.

Governments across the UK must work together and provide clarity on all of these issues in the run up to withdrawal negotiations in order to avoid a negative impact on the nursing and social health care workforce. Until the formal negotiations on the UK’s withdrawal from the EU, and its post-Brexit settlement begin, it is very difficult to speculate what the impact on nursing in the UK will be.

Once there is greater clarity, the RCN will take forward work to consider the impact of leaving for both nursing and the RCN, to ensure that the voice of nursing is heard in future negotiations to leave the EU.

References:

i. Scottish Parliament Information Centre Briefing, The Impact of EU Membership in Scotland
iv. IPPR Report, Becoming one of us; Reforming the UK’s citizenship system for a competitive, post-Brexit world