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THE ROLE OF HOSPITAL AND HEALTH-CARE EMPLOYERS IN PROMOTING FAIR AND JUST PRINCIPLES IN THE INTERNATIONAL RECRUITMENT OF HEALTH PROFESSIONALS AND THE PREVENTION OF BRAIN DRAIN

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INTRODUCTION

In common with much of Europe, the USA, Canada and Australia, the UK has many international recruited staff working in the health and care system. According to 2018 OECD data¹, 14.9% of nurses and 30% of doctors in England trained outside of the United Kingdom (UK)². Similarly, the social care³ sector employs 35% of nurses and 16% of all social care workers from beyond the UK⁴. In the EU, the annual inflow of foreign trained nurses and doctors from outside the EU and the UK vary across Member States, from less than 2% in Lithuania, Romania, Poland of both foreign trained nurses and doctors to more than 12.9%, 27% and 41% of foreign trained doctors in Germany, Sweden and Ireland. In terms of foreign-trained nurses, they account for 4.8%, 8.8% and 3.6% in Italy, Germany and Belgium respectively for the overall number of nurses.

Whilst the scale of international recruitment in the UK has varied over the years, there has never been a time when the National Health Service (NHS) has not recruited from overseas and international recruitment will continue to play a vital role in the future. EU Member States, such as the Netherlands, the Dutch Hospital Association, reports that over the past years, the dependency on international recruitment is decreasing as they are

focusing on the promotion of national self-sufficiency in training of nurses and doctors. Considering that the number of graduating healthcare professionals do not provide an adequate supply of personnel to meet their current and anticipated workforce requirement in Ireland, Health Services Executive, rely on the international nurse framework⁵. This contract has been awarded in compliance with EU Procurement Directives and in accordance with best practice, in line with WHO recruitment guidelines. Nurses and Midwives recruited internationally through this framework are offered specified purpose two year contracts.

In the UK the NHS are continuing to rely on the international labour force to fill vacancies in the short to medium term. This is in line with the 2020 European Commission's Country-Specific Recommendations⁶ on healthcare, where the majority of Member States received recommendations to address health workforce shortages and their distribution. The CEDEFOP 2020 skills forecast⁷ for human health and social work activities showed that the sector is expected to grow by 10.1%, totalling to 23 613 600 jobs in 2030.

In the UK, plans to increase international recruitment should be viewed alongside robust measures the Government has put in place to increase domestic supply to achieve a sustainable

¹ https://stats.oecd.org/Index.aspx?DataSetCode=HEALTH_WFMI# (short link: <https://bit.ly/3w2Ojfq>)

² OECD, Health Workforce Migration - Foreign-trained doctors and nurses by country of origin - Annual inflow (2018) https://stats.oecd.org/Index.aspx?DataSetCode=HEALTH_WFMI# (<https://bit.ly/3tKqZl1>)

³ <https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/publications/national-information/The-state-of-the-adult-social-care-sector-and-workforce-in-England.aspx> (<https://bit.ly/3flxd5C>)

⁴ Skills for Care, The state of the adult social care sector and workforce in England (2020) www.skillsforcare.org.uk/stateof (<https://bit.ly/3bnO1be>)

⁵ <http://ihbs.healthirl.net/Human-Resources/Agency-Contract-Management/>

⁶ European Commission, European Semester: Country Specific Recommendations (2020) https://ec.europa.eu/info/publications/2020-european-semester-country-specific-recommendations-commission-recommendations_en (<https://bit.ly/3ogGcZR>)

⁷ CEDEFOP, Skills Forecast (2020) <https://www.cedefop.europa.eu/en/publications-and-resources/data-visualisations/skills-forecast> (<https://bit.ly/33Lms7r>)



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health and social care workforce responsive to the UK population's needs. Measures include a combination of training and retaining more, investing in and diversifying the training pipeline and encouraging staff who have left the health and care workforce to return.

The UK is committed to an ethical approach to overseas recruitment and was the first nation to introduce a Code of Practice (CoP) for international recruitment for the international recruitment of healthcare workers in 2004. In February 2021, the Department of Health and Social Care updated this CoP⁸ in line with the latest World Health Organisation (WHO) advice. The main updates to the CoP include:

- Provision of safeguards against active recruitment⁹ from 47 countries on the WHO Health Workforce Support and Safeguards List¹⁰, and the inclusion of a definition of “active recruitment” to ensure clarity for recruiting organisations;
- Setting out how the UK is supporting countries with the most pressing health and social care workforce challenges;
- Strengthening guidance to ensure international recruits will be treated fairly and be provided with the appropriate support,
- Broadening the scope to include the social care sector;
- Making the policy UK wide with each devolved administration holding its own version

- an increased focus on monitoring of recruitment activity in particular on workforce flows from middle income countries and fragile and conflict-affected states

NATIONAL LEVEL INSTRUMENT AND IMPLEMENTATION

The updated UK CoP reflects the WHO's global code of practice¹¹, which promotes voluntary principles and practices in the ethical recruitment of international health and social care personnel within Member States, advances focus on international cooperation and health system strengthening. The CoP applies these principles and practices in a UK setting, taking account of the latest recommendation of the WHO Expert Advisory Group (EAG)¹².

The CoP consists of three elements, including the Code itself, a list of countries where active recruitment is not permitted and an agency list:

The CoP sets out five guiding principles and thirteen best practice benchmarks to be adhered to by UK employers and recruitment agencies when recruiting international staff to ensure international recruitment is undertaken in a sustainable, managed and mutually beneficial way and in line with advice from the WHO. It aims to provide reassurance to international migrants

⁸ Department of Health and Social Care, Code of practice for the international recruitment of health and social care personnel (2021) <https://www.gov.uk/government/publications/code-of-practice-for-the-international-recruitment-of-health-and-social-care-personnel> (<https://bit.ly/3okApCD>)

⁹ Active recruitment is when UK health and social care employers, contracting bodies, agencies and sub-contractors target individuals to market UK employment opportunities, leading to employment in the UK. The Code does not prevent individual migration, i.e. an individual applying directly and independently for a job in the UK (passive recruitment) and includes elements to protect migrant health workers

¹⁰ World Health Organization, Health Workforce Support and Safeguards List (2020) https://cdn.who.int/media/docs/default-source/health-workforce/hwf-support-and-safeguards-list8jan.pdf?sfvrsn=1a16bc6f_10 (<https://bit.ly/3ycTAmD>)

¹¹ World Health Organization, WHA63.16 - WHO Global Code of Practice on the International Recruitment of Health Personnel (2010) https://www.who.int/hrh/migration/code/code_en.pdf?ua=1 (<https://bit.ly/3oevrr4>)

¹² https://www.who.int/hrh/migration/eag_bios/en/ (<https://bit.ly/3og1l0O>)



who seek employment with health and social care organisations that comply with the Code, that they will be provided with high standards of induction and support while working in the UK.

It also sets out the UK government's approach to supporting international health and social care systems and workforce, alongside safeguards on active recruitment from countries with the greatest health workforce vulnerability. One way this is being achieved is through the formation of international partnerships through bilateral agreements which can set parameters on the way international recruitment is conducted.

PROTECTING COUNTRIES WITH WEAK HEALTH SYSTEMS

The CoP uses the WHO Health Workforce Support and Safeguard List 2020 of 47 countries, where UK recruiters are not permitted to actively recruit from, unless there is a bilateral agreement in place for managed recruitment. This is a guiding principle of the CoP and protects countries with the weakest health systems from the risk of having their health workforce depleted by UK recruitment campaigns. However, it is important to note that the CoP does not prevent individuals in these countries from having the right to migrate to the UK of their own accord and they can apply directly to health and social care employers and expect equitable and fair treatment during the process like any other applicant.

The CoP refers to a list of agencies that have signed up to operating in accordance with the CoP. NHS Employers organisation manages this list and all health and care organisations recruiting internationally should only use recruitment agencies on the list.

If there is evidence of an agency breaching the Code, then an investigation will take place and if it is proved that the agency is in breach of the code, it will be removed from the list of agencies.

EUROPEAN LEVEL INSTRUMENTS AND IMPLEMENTATION

As the European Sectoral Social Partners responsible for the hospital and healthcare sector, HOSPEEM and the European Federation of Public Service Unions (EPSU) signed a Code of Conduct and follow up on Ethical Cross-Border Recruitment and Retention in the Hospital Sector¹³(CoC) in 2008.

Through the CoC, the European social partners address inequalities and unnecessary burdens on healthcare caused by unethical recruitment practices. With this agreement the European social partners commit to their own responsibilities, when, for instance, using the services of external agencies. Only those with demonstrated ethical recruitment practices should be used for cross-border recruitment. In case exploitative practices occur, these agencies should be removed from agreed lists.

The code of conduct is based upon 12 key principles and com-

¹³https://www.hospeem.org/wp-content/uploads/2011/11/EPSU-HOSPEEM_Code_of_conduct_07-04-08_with_signatures-2.pdf (<https://bit.ly/3w3TqMd>)



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mitments. In particular principle six on fair and transparent contracting highlights that workers and employers need to be protected from false information, misleading claims and exploitation. Prior to appointment, employers need to provide accurate information on trial periods, on termination of contract, job descriptions, required skills and qualifications, training opportunities, terms of employment, pay, and workers' rights and obligations. Workers need to provide employers with correct information on their formal training and education, their qualifications and experience, their language skills, and give references when asked.

National social partners implemented the CoC by organising internal seminars with members of trade unions or employers organisations respectively, and met public authorities from local to national level. Social partners from Bulgaria, Denmark, Finland, the Netherlands and Norway using the CoC and the WHO Code in parallel. Challenges relating to sufficient language skills and adequate professional qualifications to facilitate a swift integration of migrant healthcare workers prevail, as well as to the availability of measures to overcome deficits. Furthermore, the insufficient use of the qualified workforce that already lives in a country of destination but currently are not working in the healthcare sector is an additional challenge and lastly, the need for countries affected by an outflow of health workers to enact policies and measures to make employment more attractive. HOSPEEM and EPSU aim to promote the CoC as a complementa-

ry tool to the WHO Code. The CoC focuses on and commits only the national and EU-level social partners in the hospital sector.

ETHICAL CROSS-BORDER RECRUITMENT

A guiding principle of the CoP is to ensure parity for international employees with domestically trained staff in all terms of employment and conditions of work and to ensure the provision of the same access to further education and training and continuous professional development.

This is important because fair treatment of all employees regardless of their countries of origin and race is crucial for job satisfaction and retention of the health and care workforce. All staff should have all the support they need to fulfil their potential in order to provide exceptional patient care.

The CoP best practice benchmarks expand on the guiding principle for all stages of the recruitment process. They cover the responsibilities employers and where appropriate, agencies, have with regards to the provision of information about the role being advertised, how employers should be responding to direct applications (as opposed to those put forward by a recruitment agency) and the level of support and induction which should be provided to international recruits pre and post arrival in the UK.

The CoP advises that the best practice benchmarks should be read in conjunction with NHS Employers' international rec-

¹⁴ <https://www.nhsemployers.org/case-studies-and-resources/2021/03/international-recruitment-toolkit> (<https://bit.ly/3oWDfyb>)

ruitment toolkit¹⁴. The toolkit is designed to encourage and enable supportive practices and processes for the recruitment of international staff across a wide range of professions.

By addressing ethical cross-border recruitment and the retention of health professionals and signing the CoC, EPSU and HOSPEEM supported the creation of a level playing field across EU Member States, the UK and Norway as well as fair and decent employment and working conditions. This development is one of the significant achievements of the Sectoral Social Dialogue Committee for the Hospital Sector as it was elaborated through a bottom-up approach, by equally involving the relevant sectoral trade unions and employers' associations throughout the process and creating a sense of joint ownership, including in the promoting of the CoC in their national contexts and the monitoring of its use and possible adaptations needed. It also contributes to equal opportunity for the health workforce and minimises unnecessary burdens on healthcare systems caused by unethical recruitment practices.

APPROVED PROCUREMENT FRAMEWORK

In the UK, NHS Trusts are encouraged to only use agencies who have signed up to the CoP and who are listed on an approved procurement framework. The framework ensures compliance with NHS pre-employment standards, so that NHS Trusts can be confident the agencies they procure are adhering to all legal requirements and are recruiting and supplying staff ethically.

A successful induction process and ongoing pastoral and professional support is of the utmost importance to ensure international recruited staff feel welcome, settle in and want to stay. The NHS Employers International Recruitment Toolkit¹⁵ sets out in more detail the personal and professional support international recruits will require to get settled in the UK and to adjust to the cultural and working differences of the NHS.

NHS England and Improvement have been working with International Nursing associations that provide support to overseas nurses. The role of the group is to enhance the overall pastoral support to overseas nurses through sharing of initiatives across the Diaspora associations and bringing together a common offer, with a focus on the group's key objectives of; health and wellbeing, professional support pastoral care to international nurses.

The Dutch sectoral social partners in the hospital sector undertook several steps to promote the use of the CoC, but also the realisation of its principles. The issue was given priority and dealt with by the Working Group "Europe" of the Labour Market Foundation for Social Partners in Hospitals in the Netherlands (StAZ). Following the translation of the CoC into Dutch, it was assessed in light of the applicable legislation, agreements between social partners and initiatives by Dutch authorities and social partners. This evaluation¹⁶ – summarised in a detailed overview in Dutch and English – helped to indicate both the existing measures to safeguard ethical recruitment, but also gaps concerning the implementation of the CoC.

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¹⁵ <https://www.nhsemployers.org/-/media/Employers/Publications/International-Recruitment-toolkit/NHS-International-recruitment-toolkit.pdf> (<https://bit.ly/3ofzOIG>)

¹⁶ http://hospeem.org/wp-content/uploads/2014/07/EPSU-HOSPEEM-CoC-ECR_R-table-Dutch-state-of-play-EN.pdf (<https://bit.ly/3oexxY5>)