NSW NURSES & MIDWIVES' ASSOCIATION

Response to

The Australian Human Rights Committee consultation on the National Anti-Racism Framework.

DECEMBER 2021

AUSTRALIAN NURSING & MIDWIFERY FEDERATION NSW BRANCH

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Foreword

The New South Wales Nurses and Midwives' Association (NSWNMA) is the registered union for all nurses and midwives in New South Wales. The membership of the NSWNMA comprises all those who perform nursing and midwifery work. This includes: registered nurses; enrolled nurses and midwives at all levels including management, research and education, and assistants in nursing and midwifery.

The NSWNMA has approximately 73,000 members and is affiliated to Unions NSW and the Australian Council of Trade Unions (ACTU). Eligible members of the NSWNMA are also deemed to be members of the New South Wales Branch of the Australian Nursing and Midwifery Federation.

NSWNMA strives to be innovative in our advocacy to promote a world class, well-funded, integrated health system by being a professional advocate for the health system and our members. We are committed to improving standards of patient care and the quality of services of all health and aged care services whilst protecting and advancing the interests of nurses and midwives and their professions.

We are pleased to be able to contribute to this consultation and hope it elicits real change for our culturally and linguistically diverse nursing and midwifery workforce, as well as the wider community.

This response is authorised by the elected officers of the New South Wales Nurses and Midwives' Association

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Acknowledgement of contributors

The NSW Nurses and Midwives' Association wishes to thank members of the Culturally and Linguistically Diverse Nurses and Midwives' Professional Reference Group for their insights and contributions in developing this response.

Introduction

As a union representing a diverse nursing and midwifery workforce, we welcome the opportunity to provide a response to this consultation. Racism is a silent, but persistent work health and safety issue in health and aged care workplaces. It is one which significantly impacts frontline workers, many of whom are public facing and have little control over their work environments and those who access health and aged care services.

We are pleased that the Australian Human Rights Commission is providing leadership through this initiative. We firmly believe by working together and informing strategies there is potential to achieve significant change. Whilst supportive of the need to develop a National Anti-Racism Framework, this must provide clear directions and strategy to guide required actions and move policy positions from 'commitments to do', to 'timescales to achieve'.

Achieving real change in health and aged care workplaces for nurses and midwives will require clear commitment by Federal and State Governments to address systemic racism through measures that require health and aged care employers to: provide workplace support systems that are appropriate and responsive; set and report on equality targets, and implement accountability measures. We believe there is scope within the Framework to achieve this.

Summary of Recommendations

1. Guiding Principle 3 be re-worded to: Protect and promote democracy, the rule of law and upholding human rights and fundamental freedoms in Australia.
2. National Outcomes should be written in measurable terms with timeframes for implementation which are universally agreed.
3. People with lived experience should be meaningfully engaged in identifying and formulating broader solutions.
4. National Outcome 1 should include universally agreed and overtly state transparency and accountability measures including, but not limited to: annual public reporting of a broad range of data; standardisation of methodological principles such as data sources, and scope of data capture.
5. National Outcome 3 be re-worded as follows: All Australian Governments adopt strategies to deliver proportionate representation of diverse workers across the breadth of employers, job roles and pay [awards/bands], including in key leadership positions.
6. National Outcome 5 key actions and strategies point three be amended to require all employers to act to counter and prevent structural racism.
7. National Outcome 5 key actions and strategies point four be amended to require not only commitment to countering racism but also set measurable targets and actions that are subject to governance and accountability measures.
8. National Outcome 6 key actions and strategies point five to ensure new migrant workers are provided with information on how they can seek industrial representation and other support services.

Why is the National Anti-Racism Strategy relevant to Nurses and Midwives in NSW?

The current composition of the Australian nursing and midwifery workforce is difficult to determine given there is no comprehensive data collection. AIHW statistics from 2015 showed at the time there were 3,187 nurses and midwives who identified as Aboriginal or Torres Strait Islander[1]. In addition, Australian Bureau of Statistics data relating to other characteristics, suggests around a quarter of the nursing and midwifery workforce speak a language other than English at home[2]. However, this information barely scratches the surface in identifying the full range of cultural and linguistic diversity that exists.

In a survey of our membership in 2018 respondents self-reported having 100 different cultural and linguistic backgrounds, the main being Indian, Filipino, African Countries, Chinese and Nepalese[3]. We believe the second proposed Guiding Principle will enable greater understanding of the breadth of diversity within the nursing and midwifery workforce to enable key actions and strategies to be developed and implemented.

In examining the experience of nurses and midwives in the workplace there is a growing evidence base pointing at endemic racism within health and aged care workplaces. Issues of commonality can be found through the literature. Discrimination from patients/residents and colleagues, lack of workplace support systems and failure by management to respond appropriately were findings common across multiple studies conducted in Australia[4,5,6,7,8].

Australia is proud of its multi-culturalism. However, rhetoric regarding inclusivity and equality of opportunity has not translated into many workplaces. This has led to significant obstacles to career progression, poor recognition of skills and competencies and inequality of opportunity in health and

[1] https://www.aihw.gov.au/reports/workforce/nursing-and-midwifery-workforce-2015/data
[2] ABS (2016) Census Data, available at: https://www.abs.gov.au/census
[3] NSWNMA (2019) The Cultural Safety Gap: Experiences of NSW Culturally and Linguistically Diverse Nurses and Midwives. Available at: https://www.nswnma.asn.au/wp-content/uploads/2019/09/CaLD-Report-FINAL-lr.pdf
[4] White, J. et Al (2021) Self-reported Discrimination in the Victorian Public Hospital Nursing Workforce, *The Journal of Aging and Social Change* 11(1) pp. 67-79
[5] Ibid, NSWNMA
[6] Ng Chok, H., et Al (2017) The factors impacting personal and professional experiences of migrant nurses in Australia: An integrative review, *Collegian Journal of the Royal College of Nursing Australia*, Available at: https://www.researchgate.net/publication/317824598_The_factors_impacting_personal_and_professional_experiences_of_migrant_nurses_in_Australia_An_integrative_review
[7] Mapedzahama, V. et Al (2012) Black nurse in white space? Re-thinking the in/visibility of race within the Australian nursing workplace, *Nursing Inquiry* 19(2) pp. 153-64
[8] Dywili, S., O'Brien, L. and Anderson, J. (2021) It's only the skin colour, otherwise we are all people: the changing face of the Australian nurse, *Australian Journal of Advanced Nursing*, 38(2) pp. 13–22

aged care workplaces for Culturally and Linguistically Diverse (CaLD) nurses and midwives[9]. As a largely female represented profession, evidence pointing to frequent under-valuing and under-representation of CaLD female women in leadership positions[10] speaks directly to the experience of our members.

Other countries are similarly lacking in overarching strategies aimed at eliminating racism against workers in health and aged care settings[11,12,13]. Findings suggest well-intentioned national strategies, whilst effective in raising awareness of the issued faced by CaLD employees, require robust governance and accountability measures supported by broader community-wide strategies to be effective.

Case Example: NHS England

NHS England is the largest healthcare employer in the UK. It implements a National Workforce Race Equality Standard (WRES) measure as a contractual condition of its service providers[14]. This includes a requirement to implement and evaluate nine prescribed measures to ensure CaLD healthcare workers receive equal access to career opportunities and receive fair treatment in the workplace. However, five-year data across the breadth of regulated services shows no significant improvements arose in any of the target outcomes. Indeed, relative levels of harassment, bullying or abuse from both patients and colleagues has increased[15].

Enforcement of the WRES falls to the national regulator. However, an evaluation of the impact of regulation revealed legislation only provided for action to be taken where the failure had resulted in a negative outcome on patient care. Only one example of had resulted in a warning notice since the WRES was commenced[16]. The regulator had scope to refer matters to the Equality and Human Rights Commission (UK) but had made no referrals since the WRES was implemented.

Whilst the WRES was found to have raised general awareness among healthcare providers and staff members, and some organisations were excelling, it did not result in uniform improvements to the experiences of CaLD nurses, midwives and AINs.

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[9] Ibid, NSWNMA
[10] Diversity Council Australia (2017) *Cracking the Glass-Cultural Ceiling*. Available to download at: https://www.dca.org.au/research/project/cracking-glass-cultural-ceiling
[11] Keshet, Y & Popper-Giveon, A (2018) Race-based experiences of ethnic minority health professionals: Arab physicians and nurses in Israeli public healthcare organizations, *Ethnicity & Health*, 23(4) pp. 442–459
[12] Snyder, CR & Schwartz, MR (2019) Experiences of Workplace Racial Discrimination among People of Color in Healthcare Professions, *Journal of Cultural Diversity*, 26(3) pp. 96–107
[13] Pendleton, J. (2017) The experiences of black and minority ethnic nurses working in the UK, *British Journal of Nursing*, 26(1) pp. 37–42
[14] NHS Standard Contract 2021/22 p 61. Available at: https://www.england.nhs.uk/publication/nhs-standard-contract-particulars-full-length/ (DOI 22 March 2021)
[15] NHS England (2020) *Workforce Race Equality Standard 2020 report*. Available at: https://www.england.nhs.uk/wp-content/uploads/2021/02/Workforce-Race-Equality-Standard-2020-report.pdf
[16] Care Quality Commission (2021) *The Impact of the Workforce Race Equality Standard in our regulation since 2015*. Available at: https://www.cqc.org.uk/about-us/equality-human-rights/impact-workforce-race-equality-standard-our-regulation-2015#conclusion

Nurses and midwives make up a significant proportion of Australia's workforce and are the largest sector in the healthcare workforce. In 2020 there were approximately 450,000 registered nurses and midwives with an annual growth of 3.1%[17]. Their experiences therefore provide a sentinel barometer from which to gauge effectiveness of national strategies aimed at eliminating racism and discrimination.

Proposed Guiding Principles

As a general statement of intent these Principles are well articulated. However, in relation to Guiding Principle 3 we believe the commitment mentioned has not been truly reflected in the actions undertaken by successive governments, policy makers and employers leading to insufficient improvements to the lived experience of nurses and midwives.

"There needs to be commitment to actionable reform. To progress from lip service to actual practical change. Anti-racism policies have been around for ages! Commitments are needed to disrupt the cart by moving from image protection when racism occurs. Default position protects the perpetrators of racism (protecting organisation image further traumatising the victims)."
NSWNMA member

Recommendation One:

Guiding Principle 3 be re-worded to: Protect and promote democracy, the rule of law and upholding human rights and fundamental freedoms in Australia.

Proposed National Outcomes

As a general comment we would like to see the final National Outcomes written in specific terms with timeframes for implementation which are universally agreed. Our members remain concerned that unless accountability is built into this National Framework using specific and time-limited targets, they will make little impact on their lived experience, however well-intentioned.

[17] https://www.health.gov.au/health-topics/nurses-and-midwives/in-australia#main-nav-default

Our members also highlight the importance of co-design in the formulation of strategies going forward, ensuring people with lived experience are meaningfully engaged in identifying and formulating broader solutions.

In 2018 the Australian Government was put on notice about the lack of culturally diverse representation in senior leadership, politics and government[18] and we suggest these statistics would be mirrored in the health and aged care workforce if similar studies were undertaken in those workplaces. Despite this evidence being publicly available, there has been little evidence of effort by governments to redress the imbalance since it was published.

Recommendation Two:

National Outcomes should be written in measurable terms with timeframes for implementation which are universally agreed.

Recommendation Three:

People with lived experience should be meaningfully engaged in identifying and formulating broader solutions.

National Outcome 1:

The proposed National Data Framework will provide a useful benchmark. However, we believe a timeframe for its initial implementation and subsequent audits should be stated. We also believe the requirement for annual public reporting of data would enhance transparency and accountability. In addition, it would also be helpful to identify the scope of this work and which data sources should be utilised. If left unstated, there is potential for manipulation of data which can mask or minimise systemic flaws therefore undermining the Guiding Principles.

An example where this would have potential value to the nursing and midwifery workforce would be data capture of the proportion of CaLD nurses and midwives relative to non-CaLD nurses and midwives subjected to regulatory action. Whilst regulation of health professionals protects the public, notifications, investigations and practice restrictions can have profound consequences, including poor health and loss of financial security for nurses and midwives. It is important that systems are in place to detect indicators of racial bias in these processes.

[18] Soutphommasane, T. Et Al (2018) *Leading for Change: a blueprint for cultural diversity and leadership revisited*. Available to download at: https://humanrights.gov.au/our-work/race-discrimination/publications/leading-change-blueprint-cultural-diversity-and-0

Recommendation Four:

National Outcome 1 should include universally agreed and overtly state transparency and accountability measures including, but not limited to, annual public reporting of a broad range of data, standardisation of methodological principles such as data sources and scope of data capture.

National Outcome 2:

We agree, it is essential there is a legal framework which supports the Guiding Principles and has capacity to address systemic and institutional discrimination. However, under the current race discrimination laws it is difficult for our members from CaLD backgrounds to prove the reason their employer treated them unfairly, for example, was because of their race unless there is some clear evidence to support that belief. Furthermore, the legal process is adversarial and can often lead to our members suffering re-traumatisation and/or victimisation.

National Outcome 3:

We broadly support this National Outcome. In relation to point three 'All Australian Governments adopt strategies to increase diversity in leadership and across public services' could be enhanced to capture *all* employers to extend the reach to benefit nurses and midwives employed in private healthcare and aged care workplaces.

"I think my experiences and opportunities are different to those of colleagues raised in Australia. For example, progression up the clinical skills ladder is vastly inequitable for overseas trained staff (African and Indian)".
NSWNMA member

"It can be difficult to articulate an interview when the panel members have no consideration, or idea, of the challenges faced by young Indigenous women. To attempt to go for a job for a start, let alone talking in a public place under stress".
NSWNMA member

Recommendation Five:

National Outcome 3 be re-worded as follows: All Australian Governments adopt strategies to deliver proportionate representation of diverse workers across the breadth of employers, job roles and pay [awards/bands], including in key leadership positions.

National Outcome 4:

We support this National Outcome.

"States and territories must run digital billboards about anti-racism to conscientise the public about the issue - that it's rampant in a similar manner to the COVID-19 pandemic. There is also a need for social, political, cultural and economic inclusion of diverse racial groups in the affairs and decisions of Australia".
NSWNMA member

National Outcome 5:

We support this National Outcome but believe there is a need for a strategy which encourages all employers to counter and prevent structural racism. Many nurses and midwives are employed in the public sector which is not exempt from discriminatory practice. Negative interpersonal communications in workplaces can cause decreased productivity in healthcare settings[19] and need to be identified and eliminated quickly.

An example of an accountability measure which has already been developed to identify this in health care workplaces is the Nursing Incivility Scale[20]. This simple governance tool has proven effective in identifying workplace incivility and causation factors[21] and could easily be incorporated into workplaces. Tools such as this also provide a straightforward benchmark to gauge cultural competence. Despite its availability and potential value in identifying racial bias, it is absent from quality measures in Australian health and aged care environments. We can see scope through this Framework to develop a similar tool for Australian health and aged care environments.

In addition, whilst we can see great value in Reconciliation Action Plans, these need to be accountable and built into governance systems. Action plans have potential to lose impetus resulting in failure to progress past idealistic statements on paper. We would want the key actions and strategies designed to benefit Aboriginal and Torres Strait Islander nurses and midwives to move beyond commitments, to measurable targets and actions that are subject to both internal and external governance and accountability measures.

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[19] Hutton, S., & Gates, D. (2008) Workplace incivility and productivity losses among direct care staff. *AAOHN Journal: official journal of the American Association of Occupational Health Nurses*, *56*(4) pp. 168–175
[20] Guidroz, A. M., et Al (2010) The nursing incivility scale: development and validation of an occupation-specific measure. *Journal of Nursing Measurement*, *18*(3), pp. 176–200
[21] Lewis, P. S., & Malecha, A. (2011) The impact of workplace incivility on the work environment, manager skill, and productivity. *The Journal of Nursing Administration*, *41*(1) pp.41–47

"I find it offensive that I am expected to do online compulsory Aboriginal Cultural Awareness Training when this is my own lived experience. It does not seem to have increased the cultural sensitivity of many that I work with! At times I feel that I am expected to leave my Aboriginality at the door when I come to work. I listen to racist comments frequently from some of my colleagues and from patients and am expected to just get on with my work and ignore it. These comments are not about me directly but are often aimed at Aboriginal people in general or about staff from other ethnic backgrounds". NSWNMA member

Recommendation Six:

National Outcome 5 key actions and strategies point three be amended to require all employers to act to counter and prevent structural racism.

Recommendation Seven:

National Outcome 5 key actions and strategies point four be amended to require not only commitment to countering racism but also set measurable targets and actions that are subject to governance and accountability measures.

National Outcome 6:

We support this National Outcome but believe the fifth key action and strategy could be strengthened. New migrant nurses and midwives face multiple barriers in the workplace[22,23,24] and consequently are at heightened risk of exploitation. It is crucial they receive information regarding their rights and are provided with information to signpost them to support, including industrial representation, in addition to any workplace induction they receive.

Recommendation Eight:

1. *National Outcome 6 key actions and strategies point five to ensure new migrant workers are provided with information on how they can seek industrial representation and other support services.*

[22] Omeri, A., & Atkins, K. (2002) Lived experiences of immigrant nurses in New South Wales, Australia: searching for meaning, *International Journal of Nursing Studies*, *39*(5), pp. 495–505
[23] Deegan, J. & Simkin, K. (2010) Expert to novice: experiences of professional adaptation reported by on-English speaking nurses in Australia, *Australian Journal of Advanced Nursing*, 27(3) pp. 31-37
[24] Ibid (8)

National Outcome 7:

We support this National Outcome, recognising the high proportion of female representation within the nursing and midwifery workforce is captured in key action and strategy three. This National Outcome would enable a system such as the one operational in the UK, described in the case study, but as before this would need to be accompanied by a community-wide strategy.

Key action and strategy one has potential to capture data on representation of CaLD nurses and midwives in senior roles within health and aged care services, but methodology will need to be developed to ensure it brings key issues for our members to the fore.

In relation to key action and strategy four we believe this is critical if the experience of CaLD nurses and midwives in health and aged care workplaces is to be enhanced. Our members have consistently advocated for better workplace support systems. An independent person or department providing culturally appropriate support, advice and representation staffed by people with lived experience who also have organisational authority within the workplace is one of the measures which would be highly valuable for our members.

It is also hoped key action and strategy four will prompt employers to examine the effectiveness of their existing strategies, or lack thereof. For example, lack of appropriate education to ensure workers know how to take bystander action, and access support. In the public health sector there is mandatory training, but this has not been effective in eliminating racially motivated bullying and harassment. Strategies to evaluate education would be welcomed.

Any education provided for staff employed in aged care workplaces is mainly designed around delivery of care rather than appropriate workplace behaviours and is not mandated. Education offered to workers is therefore entirely discretionary and relies on employers doing the right thing, leaving workers vulnerable.

"Each health district should have a Cultural and Diversity Liaison Officer/Nurse to be the source(s) for career development and advancement as well as work related issues for nurses that come from different cultural and diverse backgrounds".
NSWNMA member

"We know that many organisations have policies on anti-discrimination. However, it would be ideal if expectations regarding behaviour relative to anti-racism was included in the work contract for each employee".
NSWNMA member

"Consider making anti-racism training mandatory as it is a Work Health and Safety (WHS) issue in the workplace".
NSWNMA member

National Outcome 8:

We support this National Outcome

Response to The Australian Human Rights Commission consultation on the National Anti-Racism Strategy.

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