

**Nursing and Midwifery Council  
Fitness to Practise Committee**

**Substantive Order Review Hearing**

**Friday 20 December 2024,**

**Monday 23 December 2024**

Virtual Hearing

**Name of Registrant:** Elena Cristina Sacuiu

**NMC PIN** 13F0142C

**Part(s) of the register:** Registered Nurse (Sub Part 1)  
Adult Nurse – June 2013

**Relevant Location:** Dorset

**Type of case:** Lack of Knowledge of English

**Panel members:** John Kelly (Chair, lay member)  
Anne Rachael Browning (Registrant member)  
Chris Thornton (Lay member)

**Legal Assessor:** Trevor Jones

**Hearings Coordinator:** Abigail Addai

**Nursing and Midwifery Council:** Represented by Giedrius Kabasinksas, Case Presenter

**Ms Sacuiu:** Present and represented by Roy Donnelly, instructed by Royal College of Nursing (RCN)

**Order being reviewed:** Conditions of practice order (6 months)

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order (6 months) to come into effect on 8 February 2025 in accordance with Article 30 (1)**

[PRIVATE]

## **Decision and reasons on review of the substantive order**

The panel decided to extend the current conditions of practice order for a further 6 months

This order will come into effect at the end of 8 February 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the eighth review of a substantive conditions of practice order originally imposed by a panel of the Conduct and Competence Committee on 30 September 2016 for a period of 12 months. The order was previously reviewed and extended on 31 October 2017 and extended and varied on 9 August 2018 and 28 June 2019. The order was further extended on 30 June 2020 for a period of 18 months. On 23 December 2021, the conditions of practice order was extended for 18 months from 8 February 2022. It was extended again on the 10 July 2023 for a period of 12 months. On 26 June 2024, the conditions of practice order was extended for a further 6 months.

The current order is due to expire at the end of 8 February 2025.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charge found proved which resulted in the imposition of the substantive order were as follows:

*'That you, a registered nurse:*

- 1. Do not have the necessary knowledge of English to practise safely and effectively.'*

The seventh reviewing panel determined the following with regard to impairment:

*'The panel considered whether your fitness to practise remains impaired.*

*There are no concerns around your clinical competence or ability. There were before the panel several testimonials and references from colleagues which highlight your skills, ability, commitment and positive attitude. However, you have not passed the OET exam in accordance with your current conditions of practice order. Also, before the panel were the results from your mock OET exam relating to NMC English Language requirements in which you achieved a pass. However, it stated:*

*“Note, this is an approximate guide only, as the OET Centre does not provide full details of the marking criteria.”*

*The panel determined that the pass in the mock exam which you achieved is not sufficient evidence that you now have the necessary knowledge of English sufficient to reach the NMC required standard. Although, it indicates your continuing commitment to improve your knowledge of the English Language it cannot be accepted by the panel as indicative of your current competence in English.*

*The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection for the same reasons as the previous panel.*

*The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel considered that a reasonably informed member of the public would be concerned that you were allowed to practice unrestricted when you have not met the NMC English Language requirements in its guidance dated 2023. The panel determined that a finding of continuing impairment on public interest grounds is also required.*

*For these reasons, the panel finds that your fitness to practise remains impaired.’*

The seventh reviewing panel determined the following with regard to sanction:

*'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the circumstances of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.*

*It then considered the imposition of a caution order but again determined that, due to the circumstances of the case, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

*The panel next considered whether imposing a further or varied conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. It is satisfied that the current conditions of practice have adequately protected the public and public interest to date, and that you continue to demonstrate your commitment to your role as a nurse as well as improving your English.*

*The panel accepted that you have been complying with current substantive conditions of practice and have been engaging well with the NMC and the process. Further there was no evidence of general incompetence, nor any deep seated attitudinal problems. The panel was therefore satisfied that a conditions of practice order remains appropriate, proportionate and sufficient to manage the risks identified. This will also allow you time to undertake the OET examination you have scheduled on 28 September 2024.*

*The panel determined that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because other than your lack of Knowledge of English Language you are a competent nurse.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of six months, which will come into effect on the expiry of the current order, namely at the end of 8 August 2024. It decided to impose the following conditions:*

*For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.*

- 1. Whilst consolidating your English language skills to enable you to practise safely and effectively and until you have passed the IELTS or the OET to the requisite standard, you must restrict your nursing practice to one employer.*
- 2. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision is to consist of working at all times on the same shift as another registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.*
- 3. You must continue to work to improve your proficiency in the English Language towards achieving the NMC standard required for registration. You must undertake and pass the International English Language Testing System (“IELTS”) or the Occupational English Test (“OET”) to the required standard prior to any NMC review of this Order and you must send the results of the IELTS or OET assessment to the NMC at least 7 days before the review of this order.*
- 4. You must forward a report to the NMC from the line manager, mentor or supervisor setting out the standard of your clinical performance generally, and specifically in relation to your English language proficiency, prior to any NMC review of this order.*

5. *You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*
  
6. *You must within 14 days of accepting any employment or course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
  
7. *You must immediately inform the following parties that you are subject to a Conditions of Practice Order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (6) above, to them:*
  - a) *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*
  
  - b) *Any organisation or person employing, contracting with, or using you to undertake nursing work.'*

## **Decision and reasons on current impairment**

The panel considered whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC defines fitness to practise as a registrant's ability to practice safely, kindly and professionally. In considering this case, the panel carried out a comprehensive review of the order in light of the current circumstances. Whilst it noted the decision of the last panel, this panel exercised its own judgement as to current impairment.

The panel had regard to the documentation before it, including the NMC bundle and your bundle of documents. It has taken account of the submissions made by Mr Kabasinksas on behalf of the NMC and Mr Donnelly on your behalf.

Mr Kabasinksas gave a background to the case. He referred the panel to your recent Occupational English Test (OET) results dated 28 September 2024 and NMC guidance, *'Not Having The Necessary Knowledge Of English'* (Reference; FTP-2e) which requires that a registrant should:

*' confirm you have achieved:*

- *At least grade B (350 or above) for reading, listening, and speaking*
- *At least grade C+ (300 or above) for writing'*

He submitted that while your scores for speaking (350) and writing (320) modules meet the requirements, your scores for the listening (270) and reading (270) modules do not. Mr Kabasinksas referenced *Abrahaem v GMC* [2008] EWHC 183 (Admin) at [23] in which it was held that the persuasive burden is on the registrant to show the panel they are no longer impaired, submitting that as your OET scores have not met the required standard, you have failed to do so.

Additionally, he told the panel there are no concerns about your clinical practice and highlighted that your testimonials speak to your English language and wider professional competence. Mr Kabasinksas referred to the Supporting Information From Employers (SIFE) scheme and explained you don't qualify for this scheme because your scores in the modules of the OET that you failed, are below than the expected standard by 80 points.

Mr Kabasinksas submitted that impairment still exists on public interest and public protection grounds. As such, a further extension of your conditions of practice will be necessary to address these concerns and provide time to pass the OET.

Two witnesses then gave evidence under affirmation on your behalf. Both are registered senior nurses at Poole Hospital and work on the same ward as you. Both nurses spoke very highly of your communication skills and clinical practice which was entirely consistent with their written testimonials provided to the panel.

Witness 1 has been your manager since 2019. She described how your paperwork was often completed more thoroughly than many other nurses and that it was accurate and concise. She said you listened well and didn't require her to repeat things to you. She said there had been no adverse events or complaints about you and that your record keeping was "exemplary". Witness 1 described the career pathway to Band 6 open to you should your conditions of practice be lifted which included a prescribing qualification. This would involve a high degree of autonomy in your practice

Witness 2 said she was in no doubt about your English skills citing your excellent recordkeeping and communications with staff and patients. She described how you cope well in emergency conditions. Witness 2 described the various assessments, including the need to undertake a physical examination course before embarking on a prescribing course. Witness 2 told the panel that you becoming a nurse prescriber would be of significant help to the department and that progress towards this would happen '*as soon as possible*' should your conditions of practice order be lifted.

In evidence, you told the panel you have worked in the United Kingdom (UK) for 10 years and outlined your day to day activities in your previous and current employment. You told the panel of the steps you have taken to improve your English such as taking mock tests, speaking in English with your colleagues and watching BBC news. However, you explained [PRIVATE], combined with [PRIVATE] contributes to your failure to pass the OET. When asked to elaborate on your postponement of previous tests in 2021, you informed the panel your mother was unwell and had issues with your home.

You told the panel that you plan to retake the test in 12 months and confirmed your aspiration to become a Nurse prescriber should your condition of practice order be lifted.

Mr Donnelly on your behalf submitted that your fitness to practice is no longer impaired. He submitted your English language has improved evidenced through your OET and the testimonials provided by your colleagues. Mr Donnelly acknowledged your case is unique and unusual as you have shown yourself to be a capable nurse.



He further submitted that should the panel not agree with him and find continued impairment, the panel should remove condition 1 and 2 on the basis that they are overly restrictive;

1. *'Whilst consolidating your English language skills to enable you to practise safely and effectively and until you have passed the IELTS or the OET to the requisite standard, you must restrict your nursing practice to one employer.*
2. *At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision is to consist of working at all times on the same shift as another registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.'*

Mr Donnelly submitted that aside of passing the OET, you have complied with your conditions and continued to engage with the NMC.

### **Decisions and reasons on impairment**

The panel heard and accepted the advice of the legal assessor.

The panel took in account the previous panels decisions on the case but it is not bound by them and made its own decision on the evidence available.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired. In doing so, it had regard to NMC guidance FTP-2e which states:

*'In addition to language testing results, decision makers are also able to consider other evidence when assessing cases based on a nurse, midwife or nursing associate's knowledge of English. Such evidence will be particularly relevant if the*

*nurse, midwife or nursing associate has averaged just below the minimum scores we require, because the Fitness to Practise Committee may be less likely to make a final finding of current impairment. Other evidence that can be taken into account includes:*

- any written responses or evidence the nurse, midwife, nursing associate or employer has submitted which seems to demonstrate they have the necessary knowledge of English to practise safely*
- any evidence that the nurse, midwife or nursing associate has trained or practised in an English speaking environment for a period of time*
- any evidence that the nurse, midwife or nursing associate had previously completed a language assessment to the required standard (for example, as part of a previous application to the our register)*
- any evidence that the nurse, midwife or nursing associate has recently obtained a qualification that has been taught and examined in English.'*

This panel noted your insight into your failings and very positive testimonials from your colleagues. Your colleagues also spoke of your English language skills during evidence. The panel balanced the views of colleagues who work with you regularly against the need for objective assessment by way of the OET. The panel noted you have complied with your conditions apart from condition 3 which reads:

*'You must continue to work to improve your proficiency in the English Language towards achieving the NMC standard required for registration. You must undertake and pass the International English Language Testing System ("IELTS") or the Occupational English Test ("OET") to the required standard prior to any NMC review of this Order and you must send the results of the IELTS or OET assessment to the NMC at least 7 days before the review of this order'*

You last took the OET in September 2024 when you achieved the necessary standard in two domains but did not achieve the standard in the listening and reading domains with scores significantly below the standard. The panel did not see [PRIVATE] which you indicated were adversely affecting your performance in the OET but nevertheless saw no reason to disbelieve your submissions on these points.

The panel noted but gave reduced weight to the evidence of testimonials and witnesses' subjective assessment of your English language skills set against the objective OET. None of the evidence before the panel was such that it could conclude that you can practice safely if unrestricted. In considering this, the panel also took into account that you have worked in the UK for a number of years. The panel heard no evidence of you previously completing a language assessment or obtaining a qualification assessed in English.

Your OET scores are the only objective evidence the panel has to determine your fitness to practice in any nursing setting. The panel determined that you currently work within a specialist unit with a narrow and familiar scope of practice and over time, you have become very confident with the processes, procedures and terminology used. The panel was concerned that you may not be able to practice safely or professionally in an unfamiliar nursing environment, which is what you would be able to do if you were not found to be currently impaired.

In these circumstances, the panel considers that the regulatory concern around your English language skills, whilst capable of remediation has not yet been addressed and therefore a finding of impairment is needed on public protection grounds.

The panel also determined that a well-informed member of the public would be concerned if a finding of impairment were not made in these circumstances. The panel therefore determined that, a finding of continuing impairment on public interest grounds is also required.

### **Decision and reasons on sanction**

Having found your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the circumstances of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the circumstances of the case, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further or varied conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account Mr Donnelly's submissions on your behalf, your written submissions and witness testimony as well as your oral evidence today. The panel believed the substantial testimonial evidence shone a positive light on your professionalism and capabilities as a nurse. As a result, the panel has no concern about your clinical performance under the current conditions of practice.

The panel noted that your existing conditions are such that you have been able to continue working under supervision whilst trying to pass the OET and, apart from condition 3, you have complied with the conditions as set out. It considered Mr Donnelly's submission on your behalf that, should the panel consider a continued conditions of practice order appropriate, then conditions one and two should be removed. The panel determined that this would not be appropriate in this case because doing so would weaken the overall impact of the conditions by distancing you from supervision and would make the conditions insufficient to protect the public. The panel considers that, as currently set out, your conditions do not restrict your ability to work in a way that is disproportionate.

Having regard to all of the information before it, the panel determined that the most proportionate sanction in this case is a continued conditions of practice order.

In considering the length of a conditions of practice order, the panel determined that this should be for a period of six months from the end of the existing order. It considered that this is an appropriate period, having regard to the overall time during which the regulatory concerns in this case have been apparent and will allow you sufficient time to prepare for and resit the OET on one or more occasions before a further review takes place.

The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of your case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of six months, which will come into effect on the expiry of the current order, namely at the end of 8 February 2025. It decided to impose the following conditions:

1. Whilst consolidating your English language skills to enable you to practise safely and effectively and until you have passed the IELTS or the OET to the requisite standard, you must restrict your nursing practice to one employer.
2. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision is to consist of working at all times on the same shift as another registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.
3. You must continue to work to improve your proficiency in the English Language towards achieving the NMC standard required for registration. You must undertake and pass the International English Language Testing System (“IELTS”) or the Occupational English Test (“OET”) to the required standard prior to any NMC review of this Order and you must send the results of the IELTS or OET assessment to the NMC at least 7 days before the review of this order.- condition 3

4. You must forward a report to the NMC from the line manager, mentor or supervisor setting out the standard of your clinical performance generally, and specifically in relation to your English language proficiency, prior to any NMC review of this order.
5. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
6. You must within 14 days of accepting any employment or course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.
7. You must immediately inform the following parties that you are subject to a Conditions of Practice Order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (6) above, to them:
  - c) Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).
  - d) Any organisation or person employing, contracting with, or using you to undertake nursing work.

Any future panel reviewing this case would be assisted by:

- Any formal report of OET results; and
- A reflective log of your for preparation of the OET.

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

This will be confirmed to you in writing.

That concludes this determination.