

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

**Substantive Order Review Hearing  
Wednesday, 26 June 2024**

Virtual Hearing

<b>Name of Registrant:</b>	Elena Cristina Sacuiu
<b>NMC PIN</b>	13F0142C
<b>Part(s) of the register:</b>	Registered Nurse (Sub Part 1) Adult Nurse – June 2013
<b>Relevant Location:</b>	Dorset
<b>Type of case:</b>	Lack of Knowledge of English
<b>Panel members:</b>	Dale Simon (Chair, Lay member) Alison Thomson (Registrant member) Callum Lamont (Lay member)
<b>Legal Assessor:</b>	Robin Hay
<b>Hearings Coordinator:</b>	Amira Ahmed
<b>Nursing and Midwifery Council:</b>	Represented by Bethany Brown, Case Presenter
<b>Ms Sacuiu:</b>	Present and represented by George Pollitt of counsel, instructed by Royal College of Nursing (RCN)
<b>Order being reviewed:</b>	Conditions of practice order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Conditions of practice order (6 months)</b>

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

The panel decided to impose a conditions of practice order for a period six months.

This order will come into effect at the end of 8 August 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh 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. The last reviewing panel on 10 July 2023 imposed a conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 8 August 2024.

The charge found proved, by way of admission, which resulted in the imposition of the substantive order was as follows:

*'That you, a registered nurse:*

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

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

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

*The panel noted that there remain no concerns around your clinical competence or ability. It had view of several testimonials which highlight your skills, ability, commitment and positive attitude. It was the panel's view that you demonstrated a good grasp of the English language when answering questions and noted the documentary and witness evidence supported that you have a good understanding of English in certain settings, particularly in your current setting where you have worked a number of years and which is a small hospital setting involving routine procedures being undertaken with no HDU/ICU.*

*Your test scores were as follows:*

*December 2022: 360 in speaking, 300 in writing, 250 in listening and 240 in reading*

*May 2023: 230 in listening and 230 in reading (you had previously reached the required standard in speaking and reading in December 2022 which was within 12 months of this test)*

*The panel noted the test scores for listening and reading were significantly below the required minimum of 350. In these circumstances, the panel could not be confident that your understanding of English would apply across different, fast-paced or pressurised environments.*

*The panel had regard to your reflective piece, dated 9 July 2023, in which you stated:*

*'On 27th May 2023, [PRIVATE], I chose to sit only for the Listening and Reading components of the OET.*

*Despite my best efforts, I fell short of the necessary pass mark in these components on both occasions. My performance in the Listening was affected by my struggle to keep up with the pace of the dialogues and extract pertinent information within the time constraints. As for the Reading section, I found the time limit a challenge again,*

*impacting my ability to fully comprehend and analyse complex texts.*

*I am committed to addressing these shortcomings and aim to sit my next OET test around the first half of next year. My plan for improvement includes using various online resources to improve my speed and comprehension in listening and reading. I will start by allocating more time to practice under exam conditions, progressively increasing the complexity and speed of the materials. I am also considering joining an OET preparation course, which can provide structured guidance and personalised feedback.*

*Despite these challenges, my unwavering passion for nursing has been integral to my professional identity. Nursing isn't simply a job to me; it is a lifelong commitment to serve, heal, and constantly seek better [sic] ways to provide patient care and improve lives.'*

*The panel noted that you demonstrated insight and commitment to nursing and developing your English language skills. However, the panel had regard to NMC guidance and, in particular, the potential risk to patients. Whilst there has been no evidence of actual harm, the panel was concerned that should you be allowed to practice unrestricted, and should you not fully understand written or spoken English, this could put patients at risk. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.*

*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 determined that, in this case, 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 previous 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 this would be inappropriate for the same reasons.*

*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 noted that the current conditions of practice have adequately protected the public and public interest to date, and 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 NMC process. The panel noted that there was no evidence of general incompetence, nor any deep seated attitudinal problems. It was therefore satisfied that a conditions of practice order remains appropriate and proportionate to manage the risks identified as well as allowing you time to further your English skills and take International English Language Testing System (IELTS) or Occupational English Test (OET).*

*The panel was of the view that to impose a suspension order or a striking-off order at this time, would be disproportionate and would not be a reasonable response in the circumstances of your case because you have demonstrated that you have been able to work well within the current conditions imposed,*

*you continue to engage with the NMC and NMC process and have shown your commitment to strengthening your skills and revalidation as a nurse.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 8 August 2023. It decided to impose the following varied conditions which it considered are appropriate and proportionate in this case:*

*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.*

*This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 8 August 2023 in accordance with Article 30(1).*

*Before the end of the period of the order, a panel will hold a review hearing or meeting to see how well you have complied with the order. At the review*

*hearing or meeting, 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.'*

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

The panel first considered whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In doing so, it has undertaken a comprehensive review of the order in the light of the current circumstances. Whilst it has had in mind the decision of the last panel but it has exercised its own judgement as to current impairment.

The panel has had regard to all the documentation before it, including the NMC bundle and your bundle of documents. The panel also took account of the NMC's English Language guidance dated June 2023 and the submissions made by Ms Brown on behalf of the NMC and Mr Pollitt on your behalf.

Ms Brown outlined the background to the case.

Two witnesses then gave evidence under affirmation on your behalf. Both are registered nurses who currently work with you at University Hospitals Dorset. They also wrote positive written references on your behalf. They explained that you are a competent nurse and they have not witnessed any issues with your English Language.

Ms Brown submitted that the documents you provided today detail that you have not yet passed the OET and you have rescheduled your May examination to 28 September 2024. Ms Brown explained that as you have not yet passed the test, the NMC remain concerned about your ability to practice safely and effectively as a nurse.



Ms Brown further stated that there are no concerns around your clinical ability or practice. She acknowledged several positive references provided by colleagues that praise your abilities and interactions with service users.

Ms Brown concluded that the NMC are asking for a further conditions of practice order to be imposed to cover the period in which you will be undertaking the OET.

Mr Pollitt submitted that in the NMC guidance on English Language requirements dated June 2023 states that qualifying evidence can be practising for one year in an English speaking country. He submitted that two nurses have given evidence today to explain that you are a safe clinician who has good proficiency of the English Language. Your supervisor has also written a positive reference and has explained that you do not need to be supervised whilst working.

Mr Pollitt submitted that the panel should lift the conditions of practice order today to allow you to practice unrestricted. However, if the panel do not agree to this then the conditions of practice order could be varied to be less restrictive.

Ms Brown clarified that the NMC Guidance in relation to English Language requirements states that there has to be evidence of passing examinations in English, evidence of working in an English speaking country is not sufficient. She said that you have not shown that and are not a new nurse. Further that six previous panels have found you to be impaired.

The panel accepted the advice of the legal assessor.

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.

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.

### **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's powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions

Guidance' (SG) and has 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. 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.

The period of this order is for six months.

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.

