

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

**Substantive Order Review Hearing
Wednesday, 10 April 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Alina-Denisa Neacsu

NMC PIN 16H0409C

Part(s) of the register: Registered Midwife RM: Midwifery (11 August 2016)

Relevant Location: London

Type of case: Misconduct/Lack of knowledge of English

Panel members: Judith Webb (Chair, lay member)
Laura Wallbank (Registrant member)
Gill Edelman (Lay member)

Legal Assessor: Richard Ferry-Swainson

Hearings Coordinator: Jack Dickens

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case Presenter

Mrs Neacsu: Present and represented by Alex Adamou, of Counsel, instructed by Thompsons Solicitors. Attending via Microsoft Teams.

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect on 18 May 2024 in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing Mr Adamou made an application that parts of this hearing be held in private due to [PRIVATE], which are relevant to this case. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Kabasinskas indicated that he had no issue with this application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined that it is entirely proper for the relevant parts of this hearing to be held in private [PRIVATE] and will therefore enter private session when it is appropriate to do so.

Decision and reasons on review of the substantive order

The panel decided to make a conditions of practice order.

This order will come into effect at the end of 18 May 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001 '(the Order).

This is the second review of a substantive conditions of practice originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 14 April 2024. On 6 April 2023 the order was reviewed, and the panel extended the conditions of practice order with a variation, for a period of 12 months.

The current order is due to expire at the end of 18 May 2024.

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

The charges that were found proved were:

'That you, a registered Midwife:

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

- 2. Between 10 July 2018 and 21 August 2018 worked as a Practice Nurse at Paddington Green Health Centre when you were not entered on the Nursing and Midwifery Council's register as a Nurse.*

- 4. On 31 July 2018 at a consultation with Patient A:-*
 - b) failed to administer a typhoid vaccination or to record why that vaccination was not administered. (Only failed to record found proved)*

- 5. On 31 July 2018 at a consultation with Patient B:-*
 - a) failed to advise the patient that they should receive a Meningitis ACWY vaccination.*

- 6. On 12 July 2018 at a consultation with Patient C:-*
 - a) failed to advise the patient that they should receive a yellow fever vaccination or record any such advice. (Only failed to record found proved)*
 - b) failed to administer a yellow fever vaccination or record why that vaccination was not administered. (only failed to record found proved)*
 - c) failed to record that you had given malaria prevention advice.*

- 7. On 12 July 2018 at a consultation with Patient D:-*
 - a) failed to advise the patient's parent that the patient should receive a yellow fever vaccination or record any such advice. (Only failed to record found proved)*
 - b) failed to administer a yellow fever vaccination or record why that vaccination was not administered. (Only failed to record found proved)*
 - c) failed to record that you had given malaria prevention advice.*

8. On 12 July 2018 at a consultation with Patient E:-
- a) failed to advise the patient's parent that they should receive a yellow fever vaccination or record any such advice. (Only failed to record found proved)
 - b) failed to administer a yellow fever vaccination or record why that vaccination was not administered. (Only failed to record found proved)
 - c) failed to record that you had given malaria prevention advice.
9. On 24 July 2018 at a consultation with Patient F failed to record, which country the patient was travelling to so that the correct vaccination advice could be provided to the patient.
10. On 15 August 2018 at a consultation with Patient G administered Hepatitis A and Typhoid vaccinations when these were not necessary.
11. On 20 July 2018 at a consultation with Patient H:-
- b) failed to record why a Hepatitis A vaccination was not administered.
12. On 17 July 2018 at a consultation with Patient I:-
- b) failed to record why a Hepatitis A vaccination was not administered.
13. On 17 July 2018 at a consultation with Patient J:-
- b) failed to record why a Hepatitis A vaccination was not administered.

AND in light of the above, your fitness to practise is impaired by reason of your lack of knowledge of English and your misconduct'

However, the original panel only found misconduct in respect of charges 5a, 11b, 12b and 13b. This panel therefore only considered these charges when considering current impairment, together with charge 1, relating to not having the necessary knowledge of English to practise safely and effectively.

Previous reviewing panel's finding of impairment

'The panel noted that Mrs Neacsu has not engaged with the NMC since the original hearing. She has not complied with the condition imposed by the original substantive hearing panel, namely to undertake and sufficiently pass either an IELTS examination or to pass the Occupational English Test (OET) or any other test approved by the NMC to demonstrate the necessary knowledge of English that would allow her to practise safely as a midwife and to engage with the NMC. There was limited insight, remorse and remediation on Mrs Neacsu's part. In these circumstances, the panel considered that Mrs Neacsu remained liable to put patients at risk of harm, through her limited knowledge of English and poor record keeping. The panel considered that a risk of repetition was likely, and therefore determined that a finding of impairment remained 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 practise. 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 Mrs Neacsu's fitness to practise remains impaired.'

Decision and reasons on current impairment

The panel has considered carefully 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 considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it and the submissions made by Mr Kabasinkas and Mr Adamou.

Mr Kabasinskas submitted that you are currently impaired and that whilst it is positive to see activity and re-engagement from you, there has been no material change in addressing the concerns and strengthening of your practice. He said that the information provided by you for this hearing, which included training certificates, may indicate a strengthening of practice. However, he queried the relevance of some of the courses and drew the panel's attention to the amount of time spent on the modules, submitting that this may affect the credibility of the strengthening of practice.

Mr Kabasinskas submitted, in light of the information before the panel, that an order is still necessary for the protection of the public and adopted the submissions of the case presenter at the previous review, namely:

'He submitted that there have been no material changes in the circumstances of this case and there is nothing to demonstrate Mrs Neacsu has strengthened her practice, therefore repetition of the type of conduct that led to the finding of lack of English and poor record keeping is likely. He submitted that as a result, since Mrs Neacsu is still likely to put patients at risk of harm should she be allowed to practise unrestricted, a finding of impairment on public protection grounds is necessary.'

Mr Kabasinskas submitted an order was still otherwise in the public interest, as public confidence would be diminished should an order not be in place at this time.

Mr Adamou submitted that it is agreed you are currently impaired. He said you have insight into the failings and deficiencies in your practice, including what went wrong and what you would do differently, which can be evidenced through your reflective piece and numerous training certificates.

Mr Adamou addressed the panel on your non-compliance with condition three and failing to complete the International English Language Testing System ("IELTS") test. He outlined [PRIVATE]. Mr Adamou also made reference to [PRIVATE]. Mr Adamou informed the panel that you have had further challenges within the past 12 months with [PRIVATE]. All this led to a delay in your taking the IELTS test. However, you do intend to take the test and the NMC indicated in February 2024 that they would pay for it. All that remains, therefore, is for you to arrange a date to take the test.

Mr Adamou said that you had otherwise complied with the conditions in so far as you were able to do so in light of the fact that you cannot yet work as a midwife. He said you accepted you should have provided detail of your intentions within 28 days in accordance with condition 1, but you had not done so in light of the above complications in your life. You had, however, provided a detailed reflective piece for this hearing and included within that your intentions to return to midwifery in the UK.

Mr Adamou said you are a conscientious registrant, who accepts her failings and where you could have done things differently. You also accept the previous panel's desire to have evidence to prove your knowledge of English. He said you have developing insight but accept that given the length of time since you last practised as a midwife, together with not having yet passed the IELTS test, you are still impaired.

Mr Adamou said you agreed with the NMC's proposal that there should be a further 12 months conditions of practice order to give you time to take the IELTS test, gain employment as a midwife and thereafter demonstrate your efficiency in clinical practice.

The panel heard and 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 concluded that your fitness to practice remains impaired. The panel first considered current impairment on the ground of a lack of sufficient knowledge of the English language to be able to practise safely and effectively. It noted the non-compliance with condition three of the current conditions, which if completed would have demonstrated sufficient knowledge of the English language, stating:

- '3. You must not practise as a registered midwife until you have secured either:*
- a) An overall score of at least 7 in the IELTS examination, achieving at least 6.5 in the writing section and at least 7 in the reading, listening and speaking sections, or*

- b) A grade B in the Occupational English Test (OET) or*
- c) Any other test approved by the NMC to demonstrate the necessary knowledge of the English.'*

However, it bore in mind the circumstances preventing you from taking the IELTS test thus far due to [PRIVATE], as outlined by Mr Adamou. The panel noted that it is your intention to sit the IELTS test and the NMC has indicated it will cover the cost of your doing so.

The panel next considered current impairment on the ground of misconduct due to your poor record keeping, as reflected in charges 11, 12 and 13 and also your failing to advise Patient B that they should receive a Meningitis ACWYT vaccination. The panel was encouraged by the efforts you have made to keep up to date with your practice, as demonstrated by the many training certificates provided. However, before you could be considered safe to practise as a midwife unrestricted, it will be necessary for you to demonstrate what you have learned from these courses in a clinical setting, particularly with regard to vaccinations, record keeping and giving evidence-based advice.

The panel considered that if no finding of impairment were made then there is a risk of repetition and subsequent harm to patients. It considered that harm could be caused to patients by them not receiving the adequate level of care or information required if there is a communication error with English language or records were not kept properly and accurately. Further it considered that patients may not be able to give informed consent as the information provided to them may not be correct. The panel therefore determined that a finding of impairment is necessary to protect the public.

The panel concluded that a finding of impairment was also in the public interest. It considered that a well-informed member of the public would be concerned were they to learn of the concerns in this case. It considered that the public, including colleagues, would be concerned if they were to learn that a midwife without the necessary knowledge of English to practise safely and effectively were allowed to practice unrestricted at this time. Also, members of the public would be concerned if a midwife who represented a risk to the public were allowed to practise unrestricted.

Therefore, the panel concluded that you are still currently impaired. However, it commends you on the positive steps you have taken in attempting to strengthen your practice and keep up to date with your healthcare knowledge, [PRIVATE].

Previous reviewing panel's finding on sanction

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness 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 seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Neacsu's 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 considered that Mrs Neacsu's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mrs Neacsu's registration would 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 that the regulatory concerns related to Mrs Neacsu's lack of English and her record keeping. The panel was of the view that a conditions of practice order remains sufficient to protect patients. It took into account Mrs Neacsu's mitigating circumstances which may have impacted her lack of engagement with the NMC and the absence of any evidence of remediation.

The panel considered a further 12 months conditions of practice order in the same terms would allow Mrs Neacsu the opportunity to make contact with the NMC and address the concerns.

The panel considered a suspension order before finalising its decision and concluded, given Mrs Neacsu 's personal circumstances, that a suspension order would be disproportionate at this time.

Accordingly, the panel determined, pursuant to article 30(1), to impose a conditions of practice order for a period of 12 months from the expiry of the current order. The conditions are as follows:

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. You must notify in writing the NMC within 28 days of the receipt of this letter of your intentions in relation to your future career as a midwife within the UK.*
- 2. Depending on (1) above you must show evidence that you have kept up to date with midwifery practice.*
- 3. You must not practise as a registered midwife until you have secured either:
 - a. An overall score of at least 7 in the IELTS examination, achieving at least 6.5 in the writing section and at least 7 in the reading, listening and speaking sections, or*
 - b. A grade B in the Occupational English Test (OET) or*
 - c. Any other test approved by the NMC to demonstrate the necessary knowledge of the English.**
- 4. You must work with your line manager/mentor/supervisor to create a personal development plan (PDP). Your PDP must address the concerns about your record keeping and giving evidence-based advice. You must:
 - Meet with your line manager/mentor/supervisor at least every month to discuss your clinical caseload and progress towards achieving the aims set out in your PDP.*
 - Send your case officer a copy of your PDP within six weeks of commencing employment as a midwife.**

• *Send your case officer a report from your line manager/mentor/supervisor prior to any review hearing. This report must show your progress towards achieving the aims set out in your PDP.*

5. You must keep the NMC informed about anywhere you are working by:

a) Telling your case officer within seven days of accepting or leaving any employment.

b) Giving your case officer your employer's contact details.

6. You must keep the NMC informed about anywhere you are studying by:

a) Telling your case officer within seven days of accepting any course of study.

b) Giving your case officer the name and contact details of the organisation offering that course of study.

7. You must immediately give a copy of these conditions to:

a) Any organisation or person you work for.

b) Any agency you apply to or are registered with for work.

c) Any employers you apply to for work (at the time of application).

d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.

8. You must tell your case officer, within seven days of your becoming aware of:

a) Any clinical incident you are involved in.

b) Any investigation started against you.

c) Any disciplinary proceedings taken against you.

9. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

a) Any current or future employer.

b) Any educational establishment.

c) Any other person(s) involved in your retraining and/or supervision required by these conditions'

Decision and reasons on sanction

Mr Kabasinkas submitted that the current conditions of practice order would be proportionate and protect the public. He said that the revocation of condition one is a matter for the panel. He invited the panel to extend the order for a period of 12 months.

Mr Adamou said that the concerns are able to be remediated and accepted that a continuation of the conditions of practice order, with the revocation of condition one, for 12 months would be proportionate in the circumstances. He said this would provide sufficient time for you to complete an IELTS test and obtain a role within a healthcare setting, demonstrating that you can apply the theory to practice.

The panel accepted the advice of the legal assessor.

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 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 seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action in a case where a continuing risk to the public has been identified.

It then considered the imposition of a caution order but again determined that an order that does not restrict your practice would not be appropriate in the circumstances for the same reasons as taking no further action.

The panel next considered whether imposing a further conditions of practice order on your registration would be a sufficient and proportionate sanction. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case and enable them to be remediated. The panel accepted that you have been complying with the current substantive conditions of practice, as far as is possible given the [PRIVATE]. It noted non-compliance with condition one in that you did not inform the NMC of your intentions of your future career within 28 days, but it considered there were valid reasons, as outlined by Mr Adamou for this non-compliance. In any event you have now made your intentions clear. The panel commends your positive re-engagement with the NMC and the efforts you have taken for this review.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.

The panel was of the view 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, when considered against the background of the last 12 months. It noted that you are engaging in a positive way, have demonstrated a high level of insight in your reflective statement and are taking steps and efforts to strengthen your practice through completing courses despite these challenges. The panel noted that you have reflected in a meaningful way on the Code of Conduct for Nurses and Midwives and the standards that are required of midwives.

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 18 May 2024. It decided to impose the following 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. You must not practise as a registered midwife until you have secured either:

- a) An overall score of at least 7 in the IELTS examination, achieving at least 6.5 in the writing section and at least 7 in the reading, listening and speaking sections, or
 - b) A grade B in the Occupational English Test (OET) or
 - c) Any other test approved by the NMC to demonstrate the necessary knowledge of the English.

2. Once you have complied with condition 1 and gained employment as a midwife you must work with your line manager/mentor/supervisor to create a personal development plan (PDP). Your PDP must demonstrate how you have improved your practice, particularly relating to your record keeping and giving evidence based information and advice. You must:
 - a) Meet with your line manager/mentor/supervisor at least every month to discuss your clinical caseload and progress towards achieving the aims set out in your PDP.
 - b) Send your case officer a copy of your PDP within six weeks of commencing employment as a midwife.
 - c) Send your case officer a report from your line manager/mentor/supervisor prior to any review hearing. This report must show your progress towards achieving the aims set out in your PDP.

3. You must continue to show evidence that you have kept up to date with midwifery practice.

4. You must keep the NMC informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.

5. You must keep the NMC informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.

- b) Giving your case officer the name and contact details of the organisation offering that course of study.
6. You must immediately give a copy of these conditions to:
- a) Any organisation or person you work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
 - e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.
7. You must tell your case officer, within seven days of your becoming aware of:
- a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.
8. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
- a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months, with a review. It considered this to be an appropriate length of time given the circumstance since the previous review and to allow you to complete an IELTS test, hopefully gain employment as a midwife and thereafter demonstrate that you are capable of safe and effective practice.

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.

Any future panel reviewing this case would be assisted by:

- Testimonials from a healthcare setting or any other employer
- Evidence of any further training or assessment
- Your attendance at any future review hearing.

This will be confirmed to you in writing.

That concludes this determination.