

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

**Substantive Order Review Hearing
22 June 2020**

Nursing and Midwifery Council
Virtual Hearing

Name of registrant: Ghiulgihan Ramazan

NMC PIN: 15F0625C

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – June 2015

Area of registered address: Romania

Type of case: Lack of knowledge of English

Panel members: Elizabeth Burnley (Chair, lay member)
Lorraine Shaw (Registrant member)
Tricia Breslin (Lay member)

Legal Assessor: John Bromley-Davenport

Panel Secretary: Ruth Bass

Nursing and Midwifery Council: Zainab Mohamed

Mrs Ghiulgihan Ramazan: Present and unrepresented

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) to
come into effect at the end of 1 August 2020 in
accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order for a period of 9 months.

This order will come into effect at the end of 1 August 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a conditions of practice order, originally imposed by a Fitness to Practise panel on 30 June 2017 for 12 months. This was reviewed on 21 June 2018 and the order was extended for a period of 12 months. The order was reviewed again on 20 June 2019 and extended for a further 12 months.

The current order is due to expire at the end of 1 August 2020.

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 was as follows:

That you, a registered nurse:

1) Do not have the necessary knowledge of the English Language to practise safely and effectively;

AND in light of the above, your fitness to practise is impaired by reasons of your lack of knowledge of English

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

The panel noted that there has been no change in circumstances since the last review. Mrs Ramazan has not attempted an IELTS examination in the last 12 months. However, the panel noted that Mrs Ramazan remains engaged with the NMC and has expressed an intention to sit the examination on 28 September 2019.

Given that Mrs Ramazan has yet to pass an IELTS exam and demonstrate that she has the necessary command of the English language, the panel was of the view that the public would remain at a risk of harm should Mrs Ramazan be allowed to practise without restriction. In light of this the panel decided that a finding of continuing impairment remains 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 Mrs Ramazan's fitness to practise remains impaired.

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

The panel next considered imposing a further conditions of practice order. The panel was of the view that a conditions of practice order remains sufficient to protect patients, noting that this case relates solely to Mrs Ramazan's competence in the English language. The panel took into account Mrs Ramazan's engagement with the NMC and her stated intention to re-sit the IELTS exam on 28 September 2019. The panel noted that Mrs Ramazan has shown she is willing to comply with a conditions of practice order and recognises the need to achieve the required level of competence.

The panel considered a further 12 months conditions of practice order in the same terms would allow Mrs Ramazan the opportunity to address the concerns regarding her language skills. The panel decided that the period of 12 months would allow sufficient time for her to sit the IELTS exam and demonstrate fulfilment of the conditions of practice. It further considered that it allowed time for further study or rescheduling of the examination should any difficulty arise. The panel noted that,

should Mrs Ramazan be successful in passing the IELTS exam, she can request an early review of this order.

The panel considered a suspension order before finalising its decision and concluded that, given Mrs Ramazan's engagement and intention to re-sit the examination soon, a suspension order would be disproportionate at this time. The panel noted that a striking off order was not an option available to this panel as Mrs Ramazan has not been subject to a substantive order for 2 years at this time but it would be an order available to a future reviewing panel.

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 Nursing and Midwifery Council (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 previous panels, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and the bundle of documents provided by you.

The panel took into account the submissions made by Ms Mohamed on behalf of the NMC. Ms Mohamed informed the panel that you still have not passed the English language test. She submitted that you have not provided any evidence to demonstrate the necessary knowledge to practise safely and effectively, and submitted that your fitness to practise remains impaired by reason of your lack of English knowledge. Ms Mohamed made no submissions with regard to sanction. However, she reminded the panel that the sanction must be proportionate.

The panel also had regard to your submissions. You told the panel that you wished to retake the test and had not given up. You were of the view that your English level was not at the required academic level.

You told the panel that you have been working as a nurse in Romania in the surgery department. You took an English language test and achieved level 5 overall. You stated that you needed help mainly with speaking, and that your writing was good. You told the panel that you read English books and listened to English CD's and wanted to take some English classes with a tutor to improve in speaking and listening. You informed the panel that the classes you were considering were closed at present due to the Covid 19 pandemic. You also told the panel that you are doing some courses now, every day for 30 minutes, and that you try to learn new words and listen. You told the panel that you did not currently have an opportunity to practice conversational English and did not know when the classes would begin.

You told the panel that if the conditions of practice order was to continue, you may come to the UK at the end of the year with the intention of gaining employment as a healthcare assistant to help improve your English.

You also told the panel that caring for people has been your profession your whole life and apologised for not having the necessary knowledge of English language.

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 had regard to your submissions and was of the view that you had demonstrated some insight into your fitness to practise by acknowledging that your current knowledge of the English language was not at the required level to practise effectively. However, the panel had regard to the fact that you had not passed the English language test and was of the view that your efforts in preparing to pass another test were somewhat vague. The panel was of the view that you had not taken any significant steps to improve your English language skill in listening and speaking in particular, and was not able to outline your plans in any depth. The panel found it to be disappointing that you had not done more in the past 12 months to address the previous conditions of practice and to improve your English.

The panel therefore determined, that in the absence of any evidence of remediation, there remains a risk of harm to the public should you be allowed to practise without restriction. 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.

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' 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 public protection issues identified. 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 public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The panel again determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further 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 was of the view that a conditions of practice order would be sufficient to protect the public noting that the only issue affecting your fitness to practise is your knowledge of the English language. The panel was satisfied that a conditions of practice order would protect the public while giving you more time to study and successfully pass the required examination. The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel was of the view that a suspension order or a strike off order would be disproportionate at this stage in light of your stated intention to improve your English and your continued engagement with the NMC. However, it wished to mark its serious concerns surrounding the length of time which has passed without successful completion of the required English language test and the lack of any definitive action plan to achieve the required level.

The panel reminds you that all sanctions up to and including a strike off order will be available to the next reviewing panel.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, providing you with a further opportunity to prepare satisfactorily and pass the required English language test.

It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

1. Before you return to practise in the UK, you must pass the IELTS to the requisite NMC standard.
2. You must provide to the NMC a copy of the certificate of the IELTS test report form to show that you have met condition one within 28 days of receiving it, and at least 14 days before any NMC review hearing or meeting.
3. You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.

4. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.

5. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any 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.

b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

6. 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 to them the conditions listed at 1 to 5 above:
 - (a) Any organisation or person employing, contracting with, or using you to undertake nursing work.
 - (b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing or midwifery services.
 - (c) Any prospective employer (at the time of application) where you are applying for any nursing or midwifery appointment.
 - (d) 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).

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 1 August 2020 in accordance with Article 30(1).

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:

- Your attendance at the next review hearing (to include remote access virtually or by phone)
- Evidence of successful completion of the required English language test
- Evidence of activities undertaken to develop your English language skills, including evidence of courses taken

This will be confirmed to you in writing.

That concludes this determination.