

**Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Order Review Meeting**

5 May 2020

Virtual Meeting

Name of registrant: Giuseppe Salonia

NMC PIN: 15K0596C

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

Area of registered address: Italy

Type of case: Lack of knowledge of English

Panel members: Trevor Spires (Chair, Lay member)
Razia Karim (Lay member)
Helen Chrystal (Registrant member)

Legal Assessor: Graeme Henderson

Panel Secretary: Caroline Pringle

Order being reviewed: Suspension order (9 months)

Fitness to Practise: Impaired

Outcome: Striking-off order to come into effect at the end of
20 June 2020 in accordance with Article 30(1)

Decision and reasons on service of notice of meeting

The panel considered whether notice of this meeting has been served in accordance with Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004.

The panel accepted the advice of the legal assessor.

It noted that the letter of notice of this substantive meeting was sent to Mr Salonia's address on the register by both first class post and recorded delivery on 12 March 2020. Royal Mail 'Track and Trace' documentation confirmed that the notice was delivered and signed for at Mr Salonia's registered address in Italy on 26 March 2020.

The notice informed Mr Salonia that his suspension order would be reviewed at a meeting on or after 4 May 2020, unless he asked for the review to take place at a hearing. Mr Salonia has not responded to the notice of hearing and has not requested a hearing.

In these circumstances, the panel was satisfied that the notice was sent more than 28 days in advance of this meeting and had been served in accordance with the Rules. The panel was also satisfied that it was appropriate to proceed with this review at a meeting as it had no reason to believe that referring this matter to a hearing would result in Mr Salonia's attendance or engagement.

Decision and reasons on review of the substantive order

The panel decided to make a striking-off order. This order will come into effect at the end of 20 June 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001 (the Order).

This is the third review of a suspension order, originally imposed by a panel of the Fitness to Practise Committee on 16 February 2018 for six months. This was reviewed and extended for 12 months on 23 August 2018. It was reviewed again on 7 August 2019 and extended for nine months. The current order is due to expire at the end of 20 June 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 English to practise safely and effectively*

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

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

The panel noted that Mr Salonia has not passed an IELTS exam and has stated, in an email dated 8 June 2019, 'I am writing to reiterate that I am not interested in working in the UK...I have no interest in working in the UK and I don't have the required level of English.'

The panel noted that Mr Salonia has not passed an IELTS exam and it appears he has stopped attempting as he no longer wants to work in the UK. The panel determined that as Mr Salonia has been unable to demonstrate that he possess the necessary knowledge of English, there remains a risk of patient harm. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel had borne in mind that its primary function was 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 required.

For these reasons, the panel finds that Mr Salonia's fitness to practise remains impaired.

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

The panel first considered whether to take no action or to impose a caution order but concluded that these would be inappropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action or impose a caution order.

The panel considered substituting the current suspension order with a conditions of practice order. It determined that in light of Mr Salonia's lack of knowledge of English and his continued stated intention that he will not to return to the UK to practise as a Registered Nurse, a conditions of practice order would not be workable or appropriate.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Salonia time to improve his English and attempt another IELTS exam if he decided to do so. A suspension order for 9 months would allow sufficient time for this and also would allow a future reviewing panel the powers to strike-off if it deemed that appropriate.

A future reviewing panel may be assisted by:

- *Mr Salonia's engagement*
- *Evidence that Mr Salonia has passed an IELTS exam*

Decision and reasons on current impairment

The panel considered carefully whether Mr Salonia's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined it 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, which included the decision and reasons of the previous panels. There has been no response provided by Mr Salonia for this panel.

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 noted that Mr Salonia had indicated to the previous panel that he had not taken another IELTS test, he did not intend to continue studying English, he has left the UK, and he did not intend to return to nursing practice in the UK. Since the last review, there has been no further engagement or communication from Mr Salonia. This panel has no information to suggest that Mr Salonia has successfully passed the IELTS (or accepted alternative) to the required standard, nor that he has changed his mind as regards returning to the UK. In fact, his disengagement with the NMC supports his previous assertions that he does not intend to continue to study English or seek to practise as a registered nurse in this country.

In the absence of any evidence that Mr Salonia has successfully passed the IELTS (or accepted alternative) to the required standard, the panel concluded that his fitness to practise remains impaired by reason of his lack of English. The panel therefore decided that a finding of continuing impairment is necessary both on the grounds of public protection and public interest, for the reasons identified by the previous reviewing panel.

Decision and reasons on sanction

Having found Mr Salonia's 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. Taking no further action would not restrict Mr Salonia's practice and, as such, would not protect patients from the risk of harm posed by his lack of English. The panel also decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution but concluded that this would also be inappropriate for the same reasons.

The panel next considered substituting the current suspension order with a conditions of practice order. However, it agreed with the decision of the last reviewing panel that, in light of Mr Salonia's lack of knowledge of English and his continued stated intention that he will not to return to the UK to practise as a registered nurse, a conditions of practice order would not be workable or appropriate.

The panel then moved on to consider the imposition of a further period of suspension. It noted that Mr Salonia has previously stated that he has left the UK, has no intention of returning here to practise as a registered nurse, and will not be continuing his English studies. There has been no further engagement from Mr Salonia since the last review and nothing to undermine his previously stated intentions regarding leaving the UK nursing profession. Mr Salonia has not been able to demonstrate the level of English required by the NMC to practise unrestricted as a registered nurse in the UK and has been clear that he no longer intends to remediate his lack of English language competence. In these circumstances, the panel considered that a further period of suspension would serve no useful purpose.

The panel therefore concluded that the only sanction which would protect the public and satisfy the public interest was a striking-off order. While this sanction has not been available to previous panels, Mr Salonia has now been subject to a substantive order for more than two years. The panel determined that, in the particular circumstances, of this case, this was now the appropriate and proportionate outcome.

Accordingly, the panel decided to make a striking-off order. This will come into effect upon the expiry of the current suspension order, namely at the end of 20 June 2020, in accordance with Article 30(1).

This decision will be confirmed to Mr Salonia in writing.

That concludes this determination.