

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

**Substantive Order Review Meeting  
Tuesday 29 November 2022**

Virtual Meeting

<b>Name of Registrant:</b>	<b>Liliana Simona Dana Ardelean</b>
<b>NMC PIN</b>	15L0316C
<b>Part(s) of the register:</b>	Registered Nurse – Sub part 1 RN1: Adult Nursing – 2 December 2015
<b>Relevant Location:</b>	Warwickshire
<b>Type of case:</b>	Lack of knowledge of English
<b>Panel members:</b>	Richardo Childs (Chair, Lay member) Kim Bezzant (Registrant member) Janine Green (Lay member)
<b>Legal Assessor:</b>	Laura McGill
<b>Hearings Coordinator:</b>	Amanda Ansah
<b>Miss Ardelean:</b>	Not present and unrepresented
<b>Order being reviewed:</b>	Suspension order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Strike-off order to come into effect at the end of 15 January 2023, namely on 16 January 2023 in accordance with Article 30 (1).</b>

## **Decision and reasons on service of Notice of Meeting**

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Miss Ardelean's registered email address by secure email on 20 October 2022.

The panel took into account that the Notice of Meeting provided details of the review including the time, date and the fact that this meeting was to be heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Ardelean has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

## **Decision regarding proceeding to consider this case at a meeting**

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

The panel noted that within the notice of meeting sent to Miss Ardelean on 20 October 2022, indicated that she could request a hearing instead of a meeting, but no request had been made. In light of this information and there being no request for a hearing by Miss Ardelean, the panel proceeded to consider this case at a meeting.

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

The panel decided to impose a striking-off order. This order will come into effect at the end of 15 January 2023, namely on 16 January 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the third review of a suspension order originally imposed by a panel of the Fitness to Practise Committee on 17 December 2019 for a period of 12 months. The order was reviewed on 30 November 2020 and 2 December 2021, where the panel imposed a further suspension order on both occasions.

The current order is due to expire at the end of 15 January 2023.

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:

*'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.'*

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

*'The panel noted that since the last review hearing, Miss Ardelean had not engaged with the NMC. There was no new information before the panel and nothing to suggest that there had been any material change of circumstances. The panel had no evidence to suggest that Miss Ardelean had undertaken an English language test recognised by the NMC, or that she has demonstrated the required standard and knowledge of English to be capable of safe and effective nursing practice.*

*The panel considered that patients would be placed at real risk of harm, due to Miss Ardelean not having the necessary knowledge of English, if she were permitted to practise without restriction. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.*

*The panel bore 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 members of the public would expect a registered nurse to have the necessary understanding of the English language, in order to practise safely and effectively. The panel therefore determined that a finding of impairment also remains necessary on public interest grounds, in order to maintain confidence in the nursing profession and in the NMC as a regulator.*

*For these reasons, the panel finds that Miss Ardelean's fitness to practise remains impaired.'*

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

*'Having found Miss Ardelean'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 also took into account the NMC's Sanctions Guidance ("SG") and bore 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 remaining risk identified due to Miss Ardelean not having demonstrated the necessary knowledge of English to be capable of safe and effective nursing practice. Taking no action would not restrict Miss Ardelean's practice. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.*

*The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the remaining risk identified due to Miss Ardelean not having demonstrated the necessary knowledge of English to be capable of safe and effective nursing practice. Imposing a caution order would also not restrict Miss Ardelean's practice. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.*

*The panel next considered the imposition of a conditions of practice order. The panel was mindful that any conditions imposed must be relevant,*

*proportionate, workable and measurable. In light of Miss Ardelean not having demonstrated the necessary knowledge of English to be capable of safe and effective nursing practice, the panel was unable to identify any relevant, proportionate, workable and measurable conditions which would address the outstanding risks, suitably protect the public and satisfy the public interest. The panel also bore in mind Miss Ardelean's lack of engagement with these proceedings, and therefore there was nothing to suggest that she would be willing or able to comply with conditions of practice.*

*The panel next considered whether to impose a further suspension order. The panel considered that a suspension order would protect patients and members of the public from the outstanding risks in this case. It considered that this would give Miss Ardelean a further opportunity to engage with the NMC and to undertake an English language test, in order to demonstrate that her English language skills are of the required standard for safe and effective nursing practice.*

*The panel did not have the option to impose a striking-off order as Miss Ardelean has not been subject to substantive orders for a continuous period of two years.*

*The panel therefore decided that a suspension order is the only appropriate and proportionate sanction in the circumstances of this case. The panel decided to impose this order for a period of 12 months. It considered that this would give Miss Ardelean sufficient time to engage with the NMC and to demonstrate remediation of the issues in her case, namely her English language skills.'*

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

The panel has considered carefully whether Miss Ardelean's 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, including the NMC bundle.

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 considered whether Miss Ardelean's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Miss Ardelean had insufficient insight. At this meeting, the panel found that this had not changed given that she has not engaged with the NMC and has not explained why she has failed to evidence completing the English language test as required.

In its consideration of whether Miss Ardelean has taken steps to strengthen her practice, the panel took into account her failure to evidence undertaking the English language test and the absence of any information from her as to when this is likely to be completed. The panel noted that there has been no update on this for almost 3 years and was not satisfied that this is likely to change in the near future.

The last reviewing panel determined that Miss Ardelean was liable to repeat matters of the kind found proved. Today's panel has received no new information. Considering this, the panel determined that Miss Ardelean is liable to repeat matters of the kind found proved.

In light of the above, the panel determined that Miss Ardelean is liable to repeat matters of the kind found proved in the future. Hence the panel determined that limbs 1 and 2 of *CHRE v NMC and Grant* were still engaged. 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 Miss Ardelean's fitness to practise remains impaired.

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

Having found Miss Ardelean 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.

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 Miss Ardelean'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 Miss Ardelean'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 Miss Ardelean'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 bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Ardelean's lack of knowledge of English. The panel decided that given the absence of engagement from Miss Ardelean and her failure to

evidence completing the required test, there was nothing to suggest that she would be willing or able to comply with conditions in any event.

The panel next considered imposing a further suspension order. The panel noted that Miss Ardelean has not engaged with the NMC since the imposition of the substantive order. Further, Miss Ardelean has not demonstrated any insight into her previous failings and has not evidenced sitting or completing the English language test since commencing work in the UK, despite an offer of assistance from an employer. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances and given that this has been ongoing for over 3 years, it is in the public interest that this matter is dealt with expeditiously.

The panel had regard to the key considerations in the NMC's sanction guidance when imposing a strike-off order:

- Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism;
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register;
- Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards;

The panel determined that not being able to communicate with patients and a failure to rectify this despite support and advice, raises a fundamental issue about a nurse's professionalism. It determined that it was necessary to take action to prevent Miss Ardelean from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of date in accordance with Article 30(1).

This decision will be confirmed to Miss Ardelean in writing.

That concludes this determination.