

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

**Substantive Order Review Meeting
Thursday 19 October 2023**

Virtual Meeting

Name of Registrant: Mrs Camelia Nechilciuc

NMC PIN 08A0056C

Part(s) of the register: RN1: Registered Adult Nurse (4 January 2008)

Relevant Location: Perthshire

Type of case: Misconduct

Panel members: Simon Banton (Chair, Lay member)
Hannah Harvey (Registrant member)
Carol Porteous (Registrant member)

Legal Assessor: Michael Hosford-Tanner

Hearings Coordinator: Amie Budgen

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 2 December 2023 in accordance with Article 30 (1)**

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 Mrs Nechilciuc's registered email address by secure email on 12 September 2023.

The panel took into account that the Notice of Meeting provided details of the review, that the review meeting would be held no sooner than 16 October 2023 and inviting Mrs Nechilciuc to provide any written evidence seven days before this date or that she could ask for a hearing.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Nechilciuc 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 and reasons on review of the current order

The panel decided to impose a suspension order for a period of 6 months. This order will come into effect at the end of 2 December 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive order. The original Fitness to Practise panel imposed a conditions of practice order for a period of 18 months on 4 November 2021. The first reviewing panel imposed a suspension order for a period of 6 months on 21 April 2023.

The current suspension order is due to expire at the end of 2 December 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:

'That you, a registered nurse:

- 1. Having agreed undertakings recommended in the light of a case to answer being found in respect of the regulatory concerns set out in Schedule 1, failed to remedy the issues identified in your practice;*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

Schedule 1

- 1. Failure to follow procedures and safe practices while administering medication to three residents;*
- 2. Verbal abuse of residents;*
- 3. Failure to document resident's refusal to take medication and/or covert administration of the same.'*

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

'The panel has considered carefully whether Mrs Nechilciuc'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 original panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, namely the NMC bundles.

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 Mrs Nechilciuc's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Nechilciuc accepted the undertakings and agreed to remedy the issues identified in her practice which was evidence of some early insight on her part. The original panel found that initially Mrs Nechilciuc appeared to understand and was committed to comply with the undertakings, however she did not do so, and the undertakings were revoked. The original panel imposed an 18-month conditions of practice order as outlined above.

Today's panel found there to be no new information that undermines the decision of the original panel and is yet to see Mrs Nechilciuc engage with the conditions of practice order. Further, in its consideration of whether Mrs Nechilciuc has taken steps to strengthen her practice, the panel noted it had no information whatsoever from Mrs Nechilciuc that demonstrated she had satisfied the conditions of practice, remediated her previous failings, and strengthened her practice. It noted also that Mrs Nechilciuc had provided no evidence that she had developed insight.

The original panel determined that Mrs Nechilciuc was liable to repeat matters of the kind found proved. It follows that having received no new information, the panel determined that Mrs Nechilciuc is still liable to repeat matters of the kind found proved. 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 Mrs Nechilciuc's fitness to practise remains impaired.'

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

'The panel next considered whether continuing a conditions of practice order on Mrs Nechilciuc's 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 has not seen evidence of any engagement from Mrs Nechilciuc with the NMC since 2021 and there is no information before it to conclude that she is willing to comply with conditions of practice. Indeed, given Mrs Nechilciuc's persistent and continuing failure to engage with undertakings, conditions of practice, or with this process, the panel is of the view that conditions of practice are no longer workable or sufficient to protect the public or satisfy the wider public interest. The panel also noted that there is no information to suggest that Mrs Nechilciuc is working as a nurse.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months to provide Mrs Nechilciuc with an opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

The panel gave serious consideration to the imposition of a striking-off order, however, decided that would be premature at this stage. It noted that such an order would be available to a future panel.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 2 June 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Nechilciuc's engagement with the NMC proceedings.*
- *A reflective piece addressing the regulatory concerns which gave rise to the findings of misconduct and the impaired fitness to practice.*
- *Testimonials and references from nursing or non-nursing employment.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Nechilciuc's 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 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 included in 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 Mrs Nechilciuc's fitness to practise remains impaired.

The panel noted that the last reviewing panel found there to be no new information that undermined the decision of the original panel and Mrs Nechilciuc had not engaged with the

NMC in relation to these proceedings. Further, in its consideration of whether Mrs Nechilciuc had taken steps to strengthen her practice, the last reviewing panel noted it had no information whatsoever from Mrs Nechilciuc that demonstrated she had satisfied the conditions of practice imposed by the original panel on 4 November 2021, remediated her previous failings, and strengthened her practice. It noted also that Mrs Nechilciuc had provided no evidence that she had developed insight.

Today's panel found there to be no new information that undermines the decision of the last reviewing panel on 21 April 2023 and noted that Mrs Nechilciuc has still not engaged with the NMC in relation to these proceedings. Further, Mrs Nechilciuc has not provided the NMC with any up-to-date evidence which could demonstrate any steps she has taken to strengthen her practice, remediate her previous failings, or demonstrated any developed insight.

The last reviewing panel determined that Mrs Nechilciuc was liable to repeat matters of the kind found proved. It follows that having received no new information, today's panel determined that Mrs Nechilciuc is still liable to repeat matters of the kind found proved. 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 Mrs Nechilciuc's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Nechilciuc'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' (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 Mrs Nechilciuc'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 Nechilciuc'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 Nechilciuc'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 that Mrs Nechilciuc had failed to adhere to a previous conditions of practice order. It concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was further not able to formulate revised conditions of practice that would adequately address the concerns relating to Mrs Nechilciuc's misconduct. The panel has not received any evidence of communication or any other engagement with the NMC by Mrs Nechilciuc since November 2020 and so the panel has concluded that conditions of practice would not be workable without her cooperation.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Nechilciuc further time to fully reflect on her previous failings. It considered that Mrs Nechilciuc needs to gain a full understanding of how her failings had an impact upon the nursing profession as a whole and not just the organisation that the individual nurse was working for. The panel concluded that a further

6-month suspension order would be the appropriate and proportionate response and would afford Mrs Nechilciuc adequate time to further develop her insight and take steps to strengthen her practice. It would also give Mrs Nechilciuc an opportunity to approach past and current health professionals to attest to her honesty and integrity in her workplace assignments since the substantive hearing. This panel urges Mrs Nechilciuc to engage with the NMC and in particular, to tell the NMC whether she wishes to remain on the register, what her work plans are and whether she wishes to return to practice as a registered nurse.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined that the imposition a suspension order for a further period of 6 months would provide Mrs Nechilciuc with an opportunity to engage with the NMC and provide evidence to demonstrate any acts of remediation, strengthened practice and insight or remorse into her failings. It considered this to be the most appropriate and proportionate sanction available.

The panel gave serious consideration to the imposition of a striking-off order, however, decided that would be premature at this stage. It noted that such an order would be available to a future panel should Mrs Nechilciuc continue to fail to engage with the NMC in relation to these proceedings and explore all of her options with them.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 2 December 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mrs Nechilciuc communicating with the NMC in relation to her future plans with her nursing career and disclosing if she wishes to return to working as a registered nurse;

- Mrs Nechilciuc's engagement with the NMC proceedings.
- A reflective piece addressing the regulatory concerns which gave rise to the findings of misconduct and the impaired fitness to practice;
- Testimonials and references from nursing or non-nursing employment.

This will be confirmed to Mrs Nechilciuc in writing.

That concludes this determination.