

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

**Substantive Order Review Hearing
Wednesday, 7 May 2025 – Friday, 9 May 2025**

Virtual Hearing

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:	Susan Ball (Chair, registrant member) Zoe Wernikowski (Registrant member) Janine Green (Lay member)
Legal Assessor:	Ruth Mann
Hearings Coordinator:	Elizabeth Fagbo
Nursing and Midwifery Council:	Represented by Nawazish Choudhury, Case Presenter
Mrs Neacsu:	Not present and represented by Dr Frances Graydon, instructed by Thompsons Solicitors
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	Conditions of practice order (9 months) to come into effect on 18 May in accordance with Article 30 (1)

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

At the outset of the hearing, Dr Graydon, on Mrs Neacsu's behalf, made a request that this case be held partially in private on the basis that proper exploration of Mrs Neacsu's case involves [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules). Dr Graydon submitted that it is in Mrs Neacsu interest for those parts of the hearing to be heard in private and her interests outweigh the public interest on those matters.

Mr Choudhury indicated that he supported the application to the extent that any reference to [PRIVATE] should be heard in private.

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 to go into private session as and when [PRIVATE] is being discussed, in order to protect her right to privacy.

Application to postpone the hearing

Dr Graydon made an application under Rule 32 to postpone the hearing. He referred to Rule 32 of the Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended) (the Rules).

Dr Graydon referred the panel to an email between Thompsons solicitors, acting on behalf of Mrs Neacsu, and the NMC. The email is dated 6 May 2025 and stated the following:

'...[PRIVATE]...'

Dr Graydon submitted that there are a number of other matters that arise in this case. He submitted that there is potential breach of condition 4 and 6, in relation to dishonesty and

non-disclosure and allegedly working as a locum practise nurse while not having an entry on the NMC register to practise as a nurse.

Dr Graydon submitted [PRIVATE].

Dr Graydon submitted that Mrs Neacsu has engaged with the NMC proceedings and intended to attend today's hearing. He referred to email correspondence where Mrs Neacsu addresses the English language test and the difficulties, she had experienced in booking this test. He submitted that [PRIVATE].

Dr Graydon referred to the relevant page in the bundle. He submitted that Mrs Neacsu has not had the opportunity to fully address the new matters raised against her due to her inability to attend this hearing and if the panel were to proceed today Mrs Neacsu would be denied the opportunity to fully participate in the hearing. Dr Graydon submitted that the panel would also be denied the opportunity to hear from Mrs Neacsu directly about how she has addressed the finding of impairment made against her and how she has addressed the conditions that were imposed on her.

Dr Graydon also submitted [PRIVATE]. For these reasons Dr Graydon submitted that there is no risk to the protection of the public. He submitted that it would be procedurally unfair to proceed in Mrs Neacsu's absence and invited the panel to postpone the hearing.

Mr Choudhury opposed this application. He submitted that if the panel were to allow the postponement, then rescheduling this hearing before the current order expires on 18 May 2025 would likely not be possible. He submitted that [PRIVATE]. Therefore, it is unknown whether she would be able to give instructions or give evidence before 18 May 2025.

Mr Choudhury submitted that the NMC is also ready to proceed with the fact-finding aspect of this review. Also, there are two witnesses, one of whom is an NMC employee, and another who is the practice manager at the medical practice where it is alleged that Mrs Neacsu worked for a period of time when she ought not to have.

Mr Choudhury told the panel that if the panel disagrees in respect of hearing the fact-finding aspect of this substantive order review, then it may wish to hear submissions in

respect of current impairment from both counsel. He submitted that the panel can then decide whether Mrs Neacsu's fitness to practice is currently impaired and whether to extend the conditions of practise order for further three or six months. Mr Choudhury submitted that an extension of the current order would be adequate and sufficient to manage the risk and the public interest in this case. Mr Choudhury submitted however that the panel would not hear live evidence in respect of the fact-finding aspect, which would be dealt with at another review.

Mr Choudhury referred the panel to the relevant documentation. He informed the panel that the fact-finding aspect relates to new matters. He submitted it was the position of the NMC that the new allegations/breaches 1 to 4 could be dealt with by this panel. He informed the panel he was instructed that the allegations arose out of the conditions. Mr Choudhury did however state that if the panel were of the view allegation 4 (practising as a registered nurse) was not a specific breach then the panel could invite the NMC to refer the allegation to screening.

Mr Choudhury submitted that it would be an injustice to the NMC and an issue of public protection if the current conditions of practice order were allowed to expire, and if the order were to expire there would be no way to reignite the order.

Decision and reasons on application to postpone

The panel heard and accepted the advice of the legal assessor. The legal assessor provided the panel with detailed advice regarding postponement/adjournment including reference to Fitness to Practice Library Guidance CMT-11 'When we postpone or adjourn hearings' which detailed reference to the case of *Levy v Ellis Carr* [2012] EWHC 64 (Ch) and the case of *GMC v Hayat* [2018] EWCA Civ 2796. The legal advice addressed the principles of fairness and consideration of public protection and factors as identified in the case of *Adeogba and R v Jones* [2002]. Reference was made to Fitness to Practice Guidance REV 3a (standard reviews before they expire) and Rev 3f (reviewing orders when there has been a breach). The legal assessor advised the panel with regard to Article 30 (1) NMC Order 2001.

The panel had regard to the considerations within Rule 32 of the Rules. The panel noted that there were new allegations involved in this review hearing. [PRIVATE]. The panel also had regard to the public interest in the expeditious disposal of these proceedings.

First, the panel considered whether to postpone this hearing in its entirety. The panel noted that if it were to postpone the hearing it is highly likely that the order would lapse, meaning that there were no restrictions on Mrs Neacsu's practice and the public could be at risk. The panel was of the view that public confidence in the profession and the regulator would be undermined if this hearing was postponed, and the current order were to expire. Therefore, for these reasons the panel determined that it would be inappropriate to postpone this hearing in its entirety.

The panel next considered whether it would be fair to Mrs Neacsu if it were to decide to proceed with the hearing in its entirety. It took into account that Mrs Neacsu had been engaging with the NMC and had regard to Mrs Neacsu's difficulties regarding booking her English language test. The panel also took into account that Mrs Neacsu expressed that she wished to attend the hearing in order to defend herself. [PRIVATE].

In light of these factors, the panel determined that it would be unfair to proceed with the fact-finding element of the hearing today, particularly given that the new allegations are serious and involve dishonesty. However, the panel determined it would consider the issue of current impairment in order to ensure that any risk remains managed leaving the alleged breaches to be determined at a later review. This would allow Mrs Neacsu time to properly defend the alleged breaches and new allegations at a later review.

The panel was aware that this review had previously been listed to be heard at a meeting rather than a hearing and that this was agreed by Mrs Neacsu. In light of this the panel determined that there is no unfairness to the Mrs Neacsu in proceeding with the review in relation to current impairment only.

The panel was mindful of the need to deal with matters expeditiously but was satisfied that it would be in the interests of the registrant and the interest of justice to proceed only with the impairment stage of the hearing and not the fact-finding elements.

The panel conducted a careful balancing exercise having regard to the fairness to Mrs Neacsu but also to the duty to protect the public. The panel was of the view that proceeding with the impairment stage of the hearing would allow Mrs Neacsu time to recover and give her the opportunity to defend herself against the alleged breaches and new allegations.

The panel therefore decided to proceed with the matters relating to current impairment.

Decision and reasons on review of the substantive order

The panel decided to vary the current conditions of practice order.

This order will come into effect at the end of 18 May 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practice Committee panel on 14 April 2022. 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 order was reviewed again on 10 April 2024 where the panel extended the conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 18 May 2025.

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

The charges found proved which resulted in the imposition of the substantive order were as follows:

'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'

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

'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].'

The second reviewing panel determined the following with regard to 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 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 [PRIVATE] and that you are not working as a midwife. 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.'*

Submissions on impairment and sanction

The panel heard submissions on impairment and sanction together. The panel received legal advice which addressed impairment and sanction after the submissions of Mr Choudhury on behalf of the NMC and Dr Graydon on behalf of Mrs Neacsu. Whilst the parties dealt with these matters together the panel first considered current impairment. Having found current impairment, the panel moved on to consider appropriate sanction.

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Neacsu'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 made its assessment regarding current impairment as per its decision not to hear evidence or make findings in relation to the alleged breaches and new allegations. The reason for this being detailed above. The panel is clear these allegations are still to be addressed by a future panel, hopefully with the attendance and engagement of Mrs Neacsu.

The panel has had regard to all of the relevant documentation before it, including the NMC bundle, and email correspondence from Mrs Neacsu. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC and Dr Graydon on Mrs Neacsu's behalf.

Mr Choudhury outlined the background of the case and referred the panel to the relevant documents. He informed the panel that Mrs Neacsu found a provider to sit her English language test with, she went on to seek agreement from the NMC, in order to pay for the test. However, there were various issues and outstanding difficulties relating to Mrs Neacsu's ability to book onto the occupational English test and arrange for the NMC to make payment. Exacerbating this further were delays in responses to Mrs Neacsu from the NMC case officer due to periods of leave, therefore Mrs Neacsu's English test remains incomplete. Mr Choudhury referred the panel to an email, dated 24 February 2025, to Mrs Neacsu from her NMC case officer which stated the following:

'...I wanted to provide you with an update on booking your English language test. As we have recently received the invoice from the testing agency and are now hoping for confirmation for the date of the booking and the testing centre by some point this week. I will communicate the booked dates along with the testing centre in due course.

I wanted to apologise for the delays in booking the test. We can understand your frustration of not being able to have completed the test earlier, having had your consent and instructions to book the test since September 2024. The delay has not been in anyway your fault, but rather a misfortunate mixture of me being on leave for a substantial

period, along with the problems that the NMC have experienced internally in making the payment to be able to book the test.

I will be sure to include this email in the review bundle for the review of your current order, so the fitness to practice panel can have sight of it and understand the matter as it is.

As discussed previously, [PRIVATE] and may not be able to attend a hearing for your review, we have recommended that the review be heard at a meeting instead, where neither you nor the NMC will be required to attend.

If you are happy for the review to be heard at a meeting, then please can you start preparing documentary evidence [PRIVATE]. We would also appreciate if you can write a statement letting the panel know your intentions for nursing and midwifery going forward, what you have been doing professionally since your last review and what order you would like them to make going forward.

If you would like to attend a review and would rather a hearing, then please let me know at the earliest opportunity...'

Mr Choudhury submitted that he acknowledged Mrs Neacsu's current circumstances and that her attempts to register to sit the English language test were unsuccessful. Therefore, she has not been able to sit the test. Mr Choudhury submitted that Mrs Neacsu has therefore been unable to comply with the condition that required the occupational English test in the current conditions of practice order. He submitted that Mrs Neacsu has not provided any testimonials, an up to date reflective piece or up to date training certificates. Therefore, both of the outstanding matters of English language test and of poor record keeping remain untested in a clinical setting.

Mr Choudhury submitted that the persuasive burden is on Mrs Neacsu. He submitted there has been no material change in circumstances and there is no information before the panel today to demonstrate that Mrs Neacsu can practise safely without restriction at this

time or that she has strengthened her practise. Therefore, the risk of repetition of the type of conduct that led to the finding of impairment regarding a lack of competence with the English language and poor record keeping remains likely and consequently a real risk of harm to patients continues. Mr Choudhury submitted that maintaining public confidence in the nursing profession and upholding proper standards of conduct and practise is the primary function of the NMC. As such, Mr Choudhury submitted that a finding of impairment is required in order to protect the public and is also otherwise in the public interest.

The panel also had regard to submissions from Dr Graydon on Mrs Neacsu's behalf. He explained that he was limited in the submissions he was able to make due to not being able to take instruction from Mrs Neacsu. He told the panel that he has taken instructions from Thompsons' Solicitors, and they are aware of the panel's decision on postponement of hearing the alleged breaches and new allegations. He stated that [PRIVATE].

Dr Graydon submitted that although there are no testimonials or reflections there is evidence that Mrs Neacsu has taken a proactive approach in attempting to secure her English language test and she has demonstrated her commitment to doing so. Dr Graydon submitted that Mrs Neacsu has faced a number of difficulties with securing her English language test, he submitted that it has been acknowledged by the NMC that it is not Mrs Neacsu's fault that she has been unable to complete her English language test, as the NMC is aware that she has had booking issues. He submitted that Mrs Neacsu has engaged with the NMC despite her circumstances [PRIVATE] which should be acknowledged.

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 Neacsu's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Neacsu had developing insight. It took into account the email, dated 24 February 2025, to Mrs Neacsu from her NMC case officer, specifically the following:

'...I wanted to provide you with an update on booking your English language test. As we have recently received the invoice from the testing agency and are now hoping for confirmation for the date of the booking and the testing centre by some point this week. I will communicate the booked dates along with the testing centre in due course.

I wanted to apologise for the delays in booking the test. We can understand your frustration of not being able to have completed the test earlier, having had your consent and instructions to book the test since September 2024. The delay has not been in anyway your fault, but rather a misfortunate mixture of me being on leave for a substantial period, along with the problems that the NMC have experienced internally in making the payment to be able to book the test...'

At this hearing the panel acknowledged that Mrs Neacsu has made clear attempts to book her English language test and that there have been delays in booking this test which have been no fault of her own. It noted Mrs Neacsu had been regularly chasing the responses from the NMC regarding the booking of her English language test. Therefore, the panel was of the view that Mrs Neacsu has taken a proactive approach in her attempts to book the English language test which shows that she has some insight into her conduct and is taking the necessary steps required to remediate.

The panel noted that Mrs Neacsu did not provide any up to date testimonials, reflective pieces or training certificates as directed to by the previous panel. However, it acknowledged that Mrs Neacsu has not been able to sit her English language test, despite her attempts to book her test over the past year. The panel therefore acknowledged that Mrs Neacsu would not have been able to practice as a midwife, and therefore, would not be able to provide this information.

The panel determined that Mrs Neacsu has not had the opportunity to practice as a registered midwife and/or strengthen her practise since the last review hearing. Due to the matters regarding Mrs Neacsu's record keeping and lack of competence in the English language, which are yet to be addressed, this panel determined that there remains a risk of repetition and subsequently, a risk of significant harm to patients if Mrs Neacsu were permitted to practice unrestricted at this time. The panel therefore decided that a finding of continuing impairment is necessary on the ground 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 and midwifery profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on the ground of public interest is also required.

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

Decision and reasons on sanction

Mr Choudhury submitted that in light of the panel's decision on postponement and the direction the panel wished to follow for the rest of the hearing, the risk can be managed adequately by a continued conditions of practice order for a minimum period of six months. He submitted that the length of the order is a matter for the panel to consider, however, in this case the panel should consider [PRIVATE].

Mr Choudhury submitted that a suspension order or striking off order would be disproportionate and although there is no reflection or testimonial before the panel, it may be of the view that Dr Graydon's attendance is indicative of Mrs Neacsu wishing to actively participate in these proceedings.

Dr Graydon submitted that a conditions of practice order remains appropriate. Dr Graydon submitted that it appears as though Mrs Neacsu still has the intention of taking her English test. He submitted that a period of three months would be appropriate [PRIVATE], however, it is a matter for the panel to consider.

The panel accepted the advice of the legal assessor.

Having found Mrs Neacsu'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 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 imposing a further conditions of practice order on Mrs Neacsu'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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that Mrs Neacsu has been proactive in seeking to undertake her English language test, however, has been unable to book her English language test through no fault of her own, which the NMC is aware of. It acknowledged that without the completion of Mrs Neacsu's English test, she is unable to obtain a registered midwifery role and has therefore been unable to comply with conditions of practice due to her current employment status but is engaging with the NMC.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence, no deep-seated attitudinal problems and that the misconduct related to poor record keeping and lack of English language competence rather than clinical competence. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.

The panel decided that the conditions should remain as currently stated, with the removal of the condition that required evidence of keeping up to date with midwifery practice. It was of the view that the contents do not specifically address the issue of record keeping or lack of English language competence and go beyond what is necessary and proportionate to manage current risk.

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 Mrs Neacsu's case because she has been proactive in attempting to undertake her English language test. However, has faced many delays from the NMC, [PRIVATE].

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 18 May 2025. 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 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.

4. 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.

5. 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.

6. 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.

7. 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 9 months in order [PRIVATE] to allow her the opportunity to prepare for and sit the English language test.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 May 2025 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 Mrs Neacsu has 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. It is also possible for either Mrs Neacsu or the NMC to request an early review of this order.

Any future panel reviewing this case would be assisted by:

- Testimonials from a healthcare setting or any other paid or voluntary work

- Evidence of any further training or continuing professional development
- An up to date reflective piece
- Your attendance at any future review hearing.

This will be confirmed to Mrs Neacsu in writing.

That concludes this determination.

At the conclusion of the hearing the panel were reminded by the Legal Assessor of the case management powers including directions as to the conduct of the case.

Mr Choudhury and Mr Graydon addressed the panel.

The panel direct the following:

- The panel have considered that the concern listed as issue 4, which has been raised as a result of new information, could be referred by the NMC for screening.