

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

**Substantive Order Review Hearing
Thursday, 13 November 2025**

Virtual Hearing

Name of Registrant:	Bogdan Constantin Benta
NMC PIN:	16B0052C
Part(s) of the register:	Nursing, Sub part 1 RN1, Registered Nurse – Adult (2 February 2016)
Relevant Location:	London
Type of case:	Lack of knowledge of English
Panel members:	Adrian Blomefield (Chair, lay member) Stacey Coxon (Registrant member) Callum Lamont (Lay member)
Legal Assessor:	Sharmistha Michaels
Hearings Coordinator:	Hanifah Choudhury
Nursing and Midwifery Council:	Represented by Sally Denholm, Case Presenter
Mr Benta:	Present and unrepresented
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	Order to lapse upon expiry with a finding of impairment in accordance with Article 30 (1), namely at the end of 24 November 2025

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

At the outset of the hearing, Ms Denholm, on behalf of the Nursing and Midwifery Council (NMC), made an application on your behalf that parts of this hearing be held in private on the basis that proper exploration of your case may involve reference to your personal and family circumstances. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported this application.

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 issues related to your personal and family circumstances are raised in order to protect your privacy.

Decision and reasons on review of the substantive order

The panel decided to allow the current suspension order to lapse upon expiry with a finding of impairment, namely at the end of 24 November 2025, in accordance with Article 30 (1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the eighth review of a substantive conditions of practice originally imposed by a panel of the Conduct and Competence Committee on 25 April 2017 for a period of 3 years. The Order was reviewed by a panel of the Fitness to Practise Committee on 15 May 2020 when the conditions of practice order was varied and further imposed for a period of 9 months. A review was held on 15 January 2021, where the conditions of practice was further varied and imposed for a period of 12 months. A further review was held on 14 January 2022 where the Fitness to Practise Committee decided to confirm and extend the existing conditions to practise for a further nine months. At the fourth review on 11 October 2022 the order was

extended for a further 12 months and the conditions were again varied. The order was reviewed on 17 October 2023 and 15 April 2024 where, both occasions, the order was extended for a period of six months. The order was last reviewed on 16 October 2024 where the order was extended for a further 12 months.

The current order is due to expire at the end of 24 November 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 Nurse:

1. Do not have the necessary knowledge of English to practise safely.

And, in light of the above, your fitness to practice is impaired by reason of your lack of knowledge of English.’

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

‘The panel considered whether your fitness to practise remains impaired.

The panel noted that the last reviewing panel noted that you were due to retake the Occupational English Test (OET) [sic] in May 2024. However in the absence of any independent and verifiable evidence that you have passed an approved language test, it determined that you have not demonstrated a level of competence in your knowledge and understanding of the English language as required by the NMC.

Today’s panel took account of your OET results for 18 May 2024. It bore in mind that in the NMC’s guidance entitled “Guidance on registration language requirements” dated June 2023, it stated, “For OET you must achieve at least

a grade B (350 to 440) in reading, listening and speaking, and at least a grade C+ (300 to 340) in writing.”

The panel noted that in your OET you had scored a “C” (250) in “Listening”, a “C” (260) in “Reading”, a “C+” (320) in “Speaking” and a “D” (190) in writing. It considered that you had scored far below the minimum scores required and as a result, have been unable to demonstrate a level of competence in your knowledge and understanding of the English language as required by the NMC.

The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection for the same reasons as the previous panel.

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. It took account of paragraph 45 in the case of Nursing and Midwifery Council v Persand [2023] EWHC 3356 (Admin). It particularly took account of the following, “...if a nurse was free to practise without being subject to conditions, such a circumstance would raise concerns in the minds of a member of the public is, in my judgment, wholly insufficient.” It noted that there was nothing in your case other than a lack of knowledge of English. As a result, the panel determined that, in this case, a finding of continuing impairment on public interest grounds is not required.

For these reasons, the panel finds that your fitness to practise remains impaired.’

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

‘The panel first considered whether to take no action but considered that this would not restrict your practice. It concluded that this would be inappropriate

in view of the public protection concerns. The panel decided that it would be proportionate to take no action.

The panel then considered the imposition of a caution order but again determined that, due to the public protection concerns, an order that does not restrict your practice would not be appropriate in the circumstances. The panel decided that it would not be proportionate 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 bore in mind that the original and substantive sanction was imposed on 25 April 2017, and that you have been subject to and complied with a conditions of practice order continually since that date. It was concerned that these proceedings have been ongoing for a significant period of time without a conclusion.

The panel considered allowing the order to lapse. This would have the effect that your registration with the NMC would cease as it only remains in place due to these proceedings. This would require you to re-register with the NMC. However, it is encouraged by your consistent engagement with the NMC and the fact that you are currently working in a healthcare setting. It also noted that your personal circumstances appeared to be a factor in not completing the OET efficiently. It appears that you are now able to devote more time to preparing for the OET and expressed a commitment to pass the OET. The panel also noted that the NMC are willing to provide you with more time to pass the OET.

The panel bore in mind that there is a public interest in getting competent nurses into practice. It is satisfied that the current conditions of practice have adequately protected the public and that you continue to demonstrate your

commitment to improving your English so that you can return to work as a nurse.

The panel accepted that you have been complying with current substantive conditions of practice and have been engaging well with the NMC and the process. The panel was therefore satisfied that a conditions of practice order remains appropriate, proportionate and sufficient to manage the risks identified. This will also allow you time to undertake the OET examination.

The panel was of the view that a further conditions of practice order is sufficient to protect patients. In this case, there are conditions that could be formulated which would protect patients during the period they are in force. The panel noted that this situation cannot continue indefinitely, and there needs ultimately to be a conclusion to the process. The panel highlights, that whilst not pre-empting future circumstances, you should not expect a future panel to automatically give you more time to pass the English tests.

The panel determined that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case namely, your lack of knowledge of English language.

Accordingly, the panel determined, pursuant to Article 30(1) 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 24 November 2024. It decided to retain 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 nurse until:*
 - i. *You have passed a test which satisfies the NMC's English Language requirements.*
 - ii. *You have provided a copy of the relevant certificate to the NMC and received confirmation from the NMC that they have received it.*
 - iii. *Your fitness to practise is confirmed as 'not impaired' by a Fitness to Practise Committee in a future substantive order review.*
2. *Until such time as confirmation as detailed in 1(c) is obtained, you must tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed to them:*
 - a. *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.*
 - b. *Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
 - c. *Any educational establishment at which you are undertaking a course of study connected with nursing, or any such establishment to which you apply to take a course (at the time of application).*
3. *You must keep us 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 us 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.*
- 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 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 24 November 2024 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:

- *Evidence of your professional development, including documentary evidence of completion of the above-mentioned English language courses and take the OET exam,*
- *Testimonials from your employer with reference to your English language skills, and*
- *Your attendance at a future hearing.'*

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 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. It has taken account of the submissions made by Ms Denholm on behalf of the NMC and submissions made by you.

Ms Denholm provided the panel with the background of the case, referring to the relevant pages in the documentation. She invited the panel to find that that your fitness to practise remains impaired due to your lack of knowledge of English. She submitted that good communication, both written and oral, is a basic and fundamental aspect of safe nursing practice and the public expects nurses to be able to communicate safely.

Ms Denholm submitted that a conditions of practice order in its current format would adequately address the concerns as the current conditions prevent you from working as a nurse until you are no longer impaired by your lack of knowledge of English. She questioned, however, the workability of the conditions of practice order given that this is now the eighth review of a substantive order first imposed in 2017.

Ms Denholm submitted that it is positive that you have been engaging with the NMC. She submitted, however, that it has been eight years without successful completion of the English language assessments. She also submitted that the panel need to be satisfied that this case will come to a conclusion.

Ms Denholm invited the panel to consider all of the sanctions that are available to it, including allowing the order to lapse with a finding of impairment. Referring to the case of *Annon v NMC* [2017] EWHC 1879 (Admin), she highlighted the importance of imposing realistic time limits on conditions to avoid prolonged uncertainty and repeated review hearings.

You told the panel that you have been having some ongoing [PRIVATE] which have affected your ability to focus on your studies and prepare for the OET exam. You said that you [PRIVATE].

You told the panel that because of [PRIVATE] and this made it difficult for you to find time to study. You also said that you have been working three long shifts a week so balancing work and [PRIVATE] has been challenging.

You told the panel that you want to be reassessed by a professional training company to understand your level and what areas you need to improve before you book your OET. You said that you have found a private company that offers an online assessment and course, and they guide you through the process until you're ready to pass the test. You said that this course usually takes about three to six months to complete.

You reiterated to the panel that you want to complete the course and pass the OET exam so you can start working again as a nurse.

In response to questions from the panel on the assurances you can provide that you will take the OET and pass it, you said that you now have the time to complete the course before taking the exam [PRIVATE]. You said that your personal circumstances did not allow you to do so previously but you now are able to take the course.

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 your fitness to practise remains impaired.

The panel noted that at the last review hearing you had not been able to provide the previous panel with your OET results as you needed more time to take the test. Today's panel noted that it had not been provided with any evidence of steps you have taken to improve your English language skills or that you have taken steps to undertake another OET or International English Language Testing System (IELTS).

The panel also took account of the fact that, at the previous review, you informed the panel that a period of 12 months would be sufficient time for you to complete the necessary actions and pass the OET. Despite having had this period, the panel noted that you have not provided any indication of meaningful progress or evidence of further efforts to remediate the concerns about your proficiency in the English language. In light of this the panel decided that a finding of continuing impairment is necessary on the ground 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. It considered that the inability to communicate effectively could bring the nursing profession into disrepute, and the public would likely be concerned if a nurse were unable to communicate adequately with patients and colleagues. Nurses are required to communicate safety concerns and advocate for their patients, and your continued failed attempts to meet the necessary language proficiency standards raises concerns about your ability to fulfil nursing duties. 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' (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 as the concerns identified in relation to your lack of knowledge of English needs to be addressed before you can safely return to practise. 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 this 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 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 imposing a further conditions of practice order. However, given the history of previous conditions of practice orders and insufficient progress, the panel questioned whether it would serve any meaningful purpose in enabling you to return to safe, unrestricted practice within a reasonable period of time. The panel took into account that you have been subject to conditions of practice orders for a continuous period of over eight years. The panel also took into account that whilst you have made some progress, you are yet to pass the OET or IELTS to the standard required by the NMC.

The panel had regard to the NMC guidance entitled *‘Removal from the register when there is a substantive order in place’* REV-2H, which indicates that after a period of three years of having been subject to a substantive order such as a conditions of practice order and remaining impaired *“it will be more appropriate for a professional to leave the register”*.

The panel noted that you have not presented any new evidence of taking additional steps to improve your English language skills. The panel also acknowledged your personal circumstances which you say have restricted you from taking the OET but determined that these alone were not sufficient to justify further delays in meeting the professional requirements for practice.

The panel noted the determination of the previous panel which said:

‘The panel noted that this situation cannot continue indefinitely, and there needs ultimately to be a conclusion to the process. The panel highlights, that whilst not pre-empting future circumstances, you should not expect a future panel to automatically give you more time to pass the English tests.’

The panel noted that you took the IELTS in 2016 and since then have taken the IELTS again in 2020 and the OET in 2024, taking the required test only twice in eight years. In the panel’s view, you have not shown any urgency or prioritisation in passing the required test.

The panel considered the possibility of a striking-off order. However, the panel determined this would be wholly disproportionate due to your ongoing attempts to remediate the concerns, the progress you have made on occasions and the implications of a five-year wait before you are able to re-apply to be re-admitted to the register. It further noted that the guidance on striking-off orders indicates that striking-off will not usually be an appropriate outcome where the professional has engaged with the fitness to practice process and the concerns relate solely to matters involving English language skills.

The panel considered allowing the order to lapse with a recording of impairment. The panel carefully considered the NMC guidance on this issue and the matters to which it must have regard in determining whether to allow the order to lapse in this way.

The panel noted that if you were to apply for readmission to the NMC register, the NMC Registrar would have to be satisfied that you were capable of safe and effective nursing practice, before accepting any application for readmission. You would have to prove these requirements, demonstrating your language skills have improved to the requisite standard. In the panel’s view it can no longer conclude based on the evidence before it that you are likely to return to safe unrestricted practice within a reasonable period of time. The panel also considered that it is not in the public interest or your own interests to remain on the register indefinitely when you are considered not fit to practise.

Taking into account the above matters and having regard to all the circumstances of the case, the panel decided to allow the current suspension order to lapse on expiry with a recording of impairment in accordance with Article 30(1), namely at the end of 24 November 2025.

This will be confirmed to you in writing.

That concludes this determination.