

**Nursing and Midwifery Council
Investigating Committee**

**Registration Appeal Hearing
Wednesday 28 May – Thursday 29 May 2025**

Virtual Hearing

Name of Appellant:	Funke Felicitas Ajao
NMC PIN:	1021792371
Type of case:	Registrations appeal
Panel members:	Godfried Attafua (Chair, registrant member) Nariane Chantler (Registrant member) Linda Hawkins (Lay member)
Legal Assessor:	Trevor Jones
Hearings Coordinator:	Rene Aktar
Nursing and Midwifery Council:	Represented by Uzma Khan, Case Presenter
Mrs Ajao:	Present and represented by Simon Holborn, NMC Watch
Decision:	Appeal dismissed

Decision and reasons

The panel decided to dismiss your appeal against the decision of the Assistant Registrar of the Nursing and Midwifery Council (NMC).

This appeal is made under Article 37 (1)(a) of the Nursing and Midwifery Order 2001 (the Order). You have appealed the decision of the Assistant Registrar, dated 5 December 2023, to refuse your application to join the NMC register as they were not satisfied that you meet the character requirements to be considered capable of safe and effective practice.

‘Article 9(2)(b) of the Order states that one of the requirements of registration is that an applicant must satisfy the Registrar that they are capable of safe and effective practice. This includes an assessment of character as per Article 5(2)(b) of the Order. Character is widely interpreted to include looking into a person’s honesty but also matters which might relate to their competency.

Article 37(1)(a): Right to appeal refusal to register.

Rule 31 (NMC Rules 2004): Admission of relevant evidence regardless of timing. The test is whether the applicant meets the threshold of good character and professional standards on the balance of probabilities and guidance is provided by the NMC (Published 5th September 2024).’

Background

On 16 March 2023, Pearson VUE, the NMC’s computer-based test (CBT) provider, alerted the NMC to unusual data relating to tests taken at Yunnik Technologies Ltd test centre in Ibadan, Nigeria (Yunnik). The CBT is in two parts, numeracy and clinical. The data raised questions about whether some or all of the CBT results at Yunnik had been obtained through fraud and called into question the validity of all tests taken at Yunnik.

Following completion of the NMC’s initial investigation into this issue it concluded that there was evidence of widespread fraud at the Yunnik centre, where a large number of

candidates had allegedly fraudulently obtained their CBT results. The NMC asked Pearson VUE to provide it with assurance that the data concerning tests taken at Yunnik were accurate, and not the result of a system error, cyber-attack, or other technical issue. Pearson VUE confirmed that, following a detailed investigation into the testing facility at Yunnik and review of the data, Pearson VUE were satisfied that there was no evidence of system error, cyber-attack, or other technical error and that the data was indicative of one or more proxy testers operating at the centre.

The NMC then engaged an independent data analytics expert of OAC Limited, to provide it with an objective analysis of the data provided by Pearson VUE. OAC looked at the times in which CBT candidates at Yunnik took to achieve their CBT pass, compared with times taken by CBT candidates from other test centres in Nigeria and globally. Using this data, OAC then calculated the probability that each CBT candidate at Yunnik could achieve their CBT pass within the time it took them to complete the test. OAC's analysis of the data supports Pearson VUE's conclusion that there may have been widespread fraudulent activity at Yunnik probably through a proxy tester acting on behalf of test candidates.

An independent expert data analysis report in relation to your CBT, shows that you achieved a pass in your tests in the following time periods:

- Numeracy: 4.10 minutes (Time allocated for test: 30 minutes)
- Clinical: 16.37 Minutes (Time allocated for test: 150 minutes)

Comparing your time to complete your tests with times taken by candidates globally, it was considered very unlikely by the NMC that you could have achieved a pass in your tests within the time it took you to complete them.

Taking into account the time in which your tests were taken, in a centre in which the NMC allege there to have been widespread fraudulent activity, it was considered by the NMC to be more likely than not that your CBT result was obtained fraudulently.

You applied to join the NMC register and relied on your CBT results which you had taken at Yunnik on 28 March 2022. You voluntarily retook and passed a UK-based CBT on 6

November 2023. You subsequently passed your Objective Structured Clinical Examination (OSCE) and worked safely as a Band 4 nurse

When considering your application to the register, the Assistant Registrar took into account the following documentation:

- An Expert independent report by the Head of Data Analytics at OAC
- Witness statements from the Director of Information Security and Security Services at Pearson VUE
- Witness statements from the NMC Executive Director of Professional Practice at that time.

The Assistant Registrar was not satisfied that they had been presented with anything that changed the conclusion that you, more likely than not, obtained your CBT result fraudulently. The Assistant Registrar therefore determined that you did not meet the character requirements to be considered capable of safe and effective practice.

In a letter dated 5 December 2023, the Assistant Registrar refused your application on the ground that you do not meet the character requirements to be considered capable of safe and effective practice.

On 29 December 2023, you appealed the decision of the Assistant Registrar in a Notice of Appeal.

Agreed evidence

At the outset of the hearing, Ms Khan informed the panel that you have accepted the respective witness statements and exhibits provided by the following witnesses

- Witness 1: Band 5 nurse in the UK who provided her experience sitting an exam at Yunnik; and

- Witness 2: Band 4 Pre-registration nurse in the UK who provided her experience sitting an exam at Yunnik.
- Witness 3: The Deputy Director for Business Transformation and a member of the Executive Team for Professional Regulation.
- Witness 4: An independent Data Analyst who provided the NMC with an analysis of the data provided by Pearson VUE;
- Witness 5: Director of Information Security and Security Services at Pearson VUE.
- Witness 6: Executive Director of Professional Practice at the NMC
- Witness 7: Senior Nursing Education Adviser and member of the Executive Team in the Professional Practice Directorate at the NMC.

Mr Holborn on your behalf confirmed to the panel that you accepted the respective witness statements and exhibits provided by Witnesses 1, 2, 3, 4, 5 and 6. You stated that you did not challenge their contents.

The panel itself considered the evidence and the guidance given by the NMC in relation to DMA-6. The panel was content to receive the evidence given the position of the parties and concluded it could be received without any prejudice to the appellant but remained mindful that this evidence was not in itself tested by way of cross examination when considering what weight would be applied to it.

The panel also heard evidence from you under affirmation.

Having heard that you accepted the respective witness statements and exhibits provided by Witnesses 1, 2, 3, 4, 5 and 6, the panel admitted them as agreed evidence in these proceedings.

Submissions

Ms Khan outlined the background to the case. She invited the panel to refuse your application for entry onto the NMC register. She submitted that the decision stated on 5 December 2023 refused your application on the grounds that your CBT results were likely to be fraudulent.

Ms Khan submitted that the decision to uphold the decision is on the basis that you have not demonstrated that you would meet the requirements of good character. She submitted that there is both generic and specific evidence.

Ms Khan submitted that a report on Yunnik identified a suspicious level of activity, either a number of tests or a significant number of tests being completed in unusually quick test times. She submitted that security also found that there were several instances of the testing centre submitting non-compliant photo ID practices.

Ms Khan submitted that subsequent investigations revealed a widespread pattern of consistent short test times that were consistent with illegitimate performance and highly inconsistent with global norms and suggestive of proxy test taking at Yunnik.

Ms Khan submitted that Pearson VUE captured several technical pieces of information related to these examinations and included a log data of keystrokes, scroll and navigation adjustments and programmes running on delivery workstations at the time. She submitted that your CBT result showed completion times far shorter than global norms and were consistent with other flagged results at Yunnik.

Ms Khan submitted that the NMC instructed an independent data analyst who concluded that such fast CBT performances strongly indicated the use of a proxy, and it was extremely unlikely that the result was obtained honestly.

Ms Khan submitted that there is evidence of improper identity verification procedures at the centre, further reinforcing concerns over the test integrity. She submitted that the independent data analyst concluded that the odds of the completion times observed being legitimate were exceedingly low, indicating that such outcomes could not be due to normal variation or error.

Ms Khan submitted that in respect of your numeracy test, this was completed in 4.1 minutes which were odds of 1:19374. She submitted that the clinical tests were completed in 16.37 minutes which were odds of 1:9413. Ms Khan submitted that this result is not reliable due to the speed of completion and fell within the fastest candidates.

Ms Khan submitted that the Registrar drew a line by using a benchmark 1:2500 in order to identify tests which were taken at such a speed that it is more likely than not that the tests were conducted using a proxy test taker. The NMC informed the individuals who had a test with 1:2500 were informed that there were concerns about the CBT results that they may have been fraudulently obtained and were told that as a result, they would have to take a new CBT.

Ms Khan submitted that the pattern was visible across both the clinical and numeracy tests again reinforcing the claim of proxy manipulations. She submitted that there are also statements from witnesses who corroborated the suspicious activity and confirmed how they felt pressurised to use a proxy upon arrival.

Ms Khan submitted that the evidence that the panel have heard is credible. She submitted that candidates were recorded completing full exams in durations that defy any honest engagement with the test, often completing questions without reading them at all. Ms Khan submitted that this is documented and corroborated through logs, statistical anomaly detection, and direct admissions by those involved.

Ms Khan submitted that when assessing character and integrity, your initial registration application was based on fundamentally unreliable results. She submitted that you had the inability to replicate the performance when you resat your CBT on 6 November 2023.

Ms Khan submitted that the NMC must continue to safeguard the integrity of the register to protect the public and the reputation of every nurse and midwife.

You submitted that you are qualified as a registered nurse, midwife and also in public health and you have been practicing for over 22 years. You said that you were a chief nurse in a teaching hospital in Nigeria and that you were able to get that position based on your academic background, experience, skills and expertise.

You said that your clinical experience relates to working in medicine, various aspects of medicine, cardiology, neurology, endocrinology and haematology. You said that you also have experience in nursing patients with surgical issues. You said that you have been part of the team that has been involved in setting up various care plans for patient's conditions and developing assessment tools.

You said that you were a clinical instructor for students, working in various teaching hospitals where you mentored diploma and degree students, supporting them in the clinical area and at the University.

You said that you started as a nurse at the age of 17. You said that you find fulfilment in this, and it gives you satisfaction.

You said that you did not agree with the decision of the Assistant Registrar.

You said that you chose Yunnik because there were no authorised CBT centres in your locality and because it was more convenient for you to travel there. You said that you took public transport to the test centre, and it took you about an hour to arrive there. You said that it was easier for you to avoid congestion on the roads due to it being on the outskirts and thus saving travel time.

You said that in preparation for the test, you used practice materials from the NMC and Pearson VUE's websites. You also said you primarily relied on your extensive academic experience, clinical work experience as an adult nurse and that you had previously conducted exams for students. You told the panel that you found the questions to be quite easy and not a challenge for you and you required little time to deal with them and this was consistent throughout the test.

In May 2023 whilst working as a Band 4 nurse the NMC sent you a letter stating that they were concerned about the CBT that you took at Yunnik. You said you resat the CBT in November 2023, where you said that you remember being under a lot of stress and afraid of what your future would hold for you.

You described yourself as an experienced and diligent nurse and that you have taken the decision to take the CBT as you wished to practice in the UK. You said that integrity and professionalism are key values and that you upheld in your practice.

Mr Holborn provided the panel with documentation to support this appeal including:

- Defence Bundle including background and context, your CV, reflection, CPD log and testimonials
- First degree certificate
- Certificate of registration
- Your witness statement

Mr Holborn submitted that you have remained engaged, cooperative and able. He submitted that you are a suitable person to be on the register. He submitted that there is nothing in the NMC case that states that you have committed fraud and that you continue to deny this.

Mr Holborn relied upon his written submissions that were given to the panel. He further submitted that you are a competent, honest and a proper person. He submitted that you have a long career. Mr Holborn submitted that you have reflected, remediated and shown insight. In response to the NMC's contention that you did not replicate the test times from

Yunnik. He submitted that there was no suggestion that you intended to replicate the test times.

The panel accepted the advice of the legal assessor.

Panel's decision

The panel considered the evidence and documentation before it and the oral evidence from you.

The panel had regard to Article 9(2)(b) and Article 37(1)(a) and Rule 31 (NMC Rules 2004) of the Order. It also had regard to the NMC's guidance on health and character.

The panel first considered whether it had sufficient evidence before it to determine on the balance of probabilities that there was generic evidence of proxy testing occurring at Yunnik at the time your test was taken.

The panel had sight of the statements and analyses provided by Witness 5 which set out specific evidence of potential fraud between 15 March 2019 and 31 March 2023, indicating patterns of suspicious behaviour uniquely evident at the Yunnik Centre when compared to other testing centres globally.

The panel also considered the report by Witness 4, an independent expert in data analytics, who conducted an independent evaluation of Pearson VUE's CBT data at the request of the NMC. Witness 4's data analysis included diagrams which evidenced the time taken globally, including other test centres in Nigeria, to complete the CBT, compared to the times achieved at Yunnik.

The panel took into account the evidence of Witness 6 in which she stated that sixteen persons had made admissions to using a proxy tester at the Yunnik Centre. The panel considered that Witness 6 recorded the accounts given by fourteen persons.

The panel also considered the respective witness statements of Witnesses 1 and 2, who both gave a detailed account of their respective experience in taking the CBT at the

Yunnik Centre and how they were pressured into using a proxy tester to complete the exams.

Having considered all the information before it, the panel determined, on the balance of probabilities, that there was generic evidence of proxy testing occurring at the Yunnik Centre at the time you took your CBT.

The panel next considered whether it is more likely than not that you used a proxy test taker in obtaining your CBT result from the Yunnik centre in Ibadan, Nigeria.

The panel took into account your oral evidence where you stated that you completed the test yourself and that it was completed quickly as you were well prepared and had extensive clinical experience. You also said that this together with your extensive academic background enabled you to achieve such test times. With regard to your level of preparation, the panel took into account the practice material you said you used in your preparation. The panel was not provided with any of these. The panel acknowledged that such preparation would have assisted you in the test, however given these were available to all candidates globally it was of the view that this in itself would provide sufficient explanation as to the speed in which you completed your CBT at Yunnik.

The panel had regard of the proximity of the test centre where you explained that you had to sit at the Yunnik Centre as there were no other test centres available at the time of your booking that were easier to get to. The panel were satisfied that you provided adequate reasonings in relation to why you chose the Yunnik Centre.

The panel considered that there were other candidates at the centre and had sight of a table that was provided in evidence which stated that there were three other candidates who took their test on the same day, but two in addition to yourself were flagged as suspicious. Satisfying the panel, on the balance of probabilities, that proxies may have been used by candidates in their tests.

On cross examination, you confirmed that you arrived at Yunnik at 11am due to taking your test at 11.30. You said you were in the waiting area until just after 2pm, when you took your test. You initially said that Yunnik was quiet and that you only saw the test

centre administrator and the receptionist and no one else. You subsequently said you could not recall when asked whether you saw anyone else there. The panel also considered that there were gaps in some of your answers where you do not recall what happened at the test centre and that some of your recollection was vague, and notwithstanding the fact that these events took place in 2022. The panel noted from the evidence provided that another candidate had their test at 1.41pm and as such, would have expected you to notice them. The panel therefore found your evidence in this regard not plausible.

The panel noted your resit test times of 4.10 minutes for the numeracy and 29.98 minutes for the clinical completed on 6 November 2023. [PRIVATE]. The panel considered that your resit test time for the numeracy took you almost three times as long and almost twice as long for the clinical. The panel concluded that your times were fast but not exceptionally fast in accordance with the global data. The panel was unable to accept your assertion that this supports your claim that you genuinely took the test at Yunnik, the fact that you passed your resit without a proxy, in the panel's judgment does not, in itself, mean you did not use a proxy at Yunnik as the panel has found. There may be many reasons why a person may not need to use a proxy, but they nonetheless go on to do so.

Considering all of the evidence before it, the panel was satisfied that it was more likely than not that you obtained the CBT results fraudulently. In reaching this decision, the panel was not satisfied that you have provided a cogent and plausible explanation as to the events on the day of your test at Yunnik.

The panel went on to determine whether you meet the character requirements for admission to the NMC register. The panel had regard to the NMC Guidance on health and character, in particular 'factors that you take into account when considering character cases' last updated 6 September 2024. The panel recognised that you are an experienced nurse of 22 years in the profession. The panel took into account the character references and positive testimonials. However, having determined that you obtained your CBT results fraudulently, the panel concluded that you breached one of the fundamental tenants of the nursing profession, to promote professionalism and trust, to act with honesty and integrity at all times. As such, your behaviour were below the standards required to join the NMC register.

The panel could not be satisfied that you are of sufficient character for safe and effective practice. The panel concluded that it was more likely than not that you had used a proxy to complete the CBT at Yunnik.

The panel therefore decided to dismiss your appeal, to uphold the decision of the Assistant Registrar, thereby refusing your application to the NMC register.

This will be confirmed to you in writing.

That concludes this determination.