

**Nursing and Midwifery Council
Investigating Committee**

**Registration Appeal Hearing
Tuesday, 5 August 2025 – Wednesday, 6 August 2025
Tuesday, 19 August 2025 and Wednesday, 8 October 2025**

Virtual Hearing

Name of Appellant:	Calista Obianuju Ogburie
PRN:	1022066228
Type of case:	Registrations appeal
Panel members:	Katriona Crawley (Chair, Lay member) Siobhan Ebdon (Registrant member) Ian Hanson (Lay member)
Legal Assessor:	Valerie Paterson
Hearings Coordinator:	Khatra Ibrahim (5 August – 6 August 2025) Catherine Acevedo (19 August 2025) Elizabeth Fagbo (8 October 2025)
Nursing and Midwifery Council:	Represented by Uzma Khan, Case Presenter
Ms Ogburie:	Present and represented by Victoria Thomas, instructed by Royal College of Nursing (RCN)
Decision:	Appeal dismissed

Decisions and reasons on potential bias

In the course of your cross-examination by Ms Khan on behalf of the Nursing and Midwifery Council (NMC), the legal assessor provided the panel with legal advice in relation to the fairness of proceedings and risk of bias.

This followed a panel member speaking in the course of the cross-examination with information which it appeared may be relevant to the question that the panel will be required to determine in relation to your appeal. The transcript from the hearing shows as follows:

'[Panel member]: I'm just what I'm hearing and is that these are questions and as a register and you, you can spot an answer, you can read the question and spot an answer. They're not. They are designed to test nursing competence.

...

'[Panel member]: Not the ordinary person in the streets. Competence to be a nurse. Nurses qualified nurses. Competence. So you can spot an answer. I'm. I'm sorry.'

The panel heard submissions from Ms Khan, on behalf of the NMC and Ms Thomas, on your behalf.

Ms Khan, who had already objected to the panel member providing information at that stage of your cross-examination, submitted that the NMC is '*neutral*', and that it is a matter for the panel to consider whether there was a potential of bias at the point of interjection. She submitted that there is a concern as to whether there was a risk of bias. She stated that the panel needed to consider whether support had been expressed for you and evidence offered, and whether in light of that, the panel was independent and impartial. She submitted that the panel needed to consider perceived bias and be seen to be fair.

Ms Thomas submitted that all that had been put forward by the panel member was '*a common-sense conclusion*' that did not reflect bias, but did reflect the evidence and referred the panel to the written documentation before it. She submitted that by the

exercise of the panel having to consider bias, that in itself created a risk that subconsciously, bias on the part of the panel could go the other way, as in bias against you. She submitted that in court proceedings, it is routine for a Judge to interrupt an advocate in relation to their line of questioning if this was deemed appropriate. Ms Thomas submitted that what occurred was no more than this.

Neither Ms Khan nor Ms Thomas made submissions that the panel had been biased or that there was a perception of bias on the part of the panel. They both agreed that the issue of bias is for the panel to determine.

The panel heard and accepted the advice of the legal assessor, who referred it to the case of *Porter v Magill* [2001] UKHL 67.

The panel, having heard and considered the submissions of counsel, the advice of the legal assessor and the words of the panel member, was satisfied that an '*independent, fair-minded and informed*' observer would not consider the words used by the panel member to be offering support and help to you. The panel considered the words used were to clarify a line of questioning in the context of you already being a qualified nurse in Nigeria at the time, and did not give a rise to bias, or a perception of bias.

The panel was not satisfied that a '*a fair minded and informed*' observer, having considered the facts would conclude that there was a real possibility that the tribunal was biased or could be perceived as biased. The panel was satisfied as to the fairness of the proceedings to date and did not anticipate any bias or perception of bias.

Decision and reasons

The panel decided to dismiss your appeal against the decision of the Assistant Registrar of the NMC dated 2 September 2024.

This is an appeal brought by you following the decision of the Assistant Registrar of the Nursing and Midwifery Council's (NMC) refusal of your application for registration as a nurse on the NMC Register.

This appeal is made under Article 37(1)(a) of the Nursing and Midwifery Order 2001 (the Order). You appealed the decision of the Assistant Registrar that you did not meet the character requirements for registration to the NMC register.

Background

On 16 March 2023, Pearson VUE, the NMC's CBT provider, alerted it to unusual data relating to tests taken at Yunnik test centre, in Ibadan, Nigeria (Yunnik). The CBT is in two parts, numeracy (allocated time of 30 minutes) and clinical (allocated time of 2 hours and 30 minutes). 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, it was 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. A proxy tester is an individual who takes a test on another's behalf.

The NMC next asked an independent data analytics expert of OAC Limited (OAC), Expert witness Mr 1, to provide the NMC 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.

Expert witness Mr 1's data analysis in relation to your Registered Nurse (Adult) CBT shows that you achieved a pass in your test in the following time at Yunnik on 14 October 2022:

- Clinical: 13.83 Minutes (Time allocated for test: 150 minutes)

Comparing your time to complete your test with times taken by candidates globally, it was considered very unlikely by the NMC that you could have achieved a pass in your test within the time it took you to complete it. To achieve this test result would have meant that you were the third fastest candidate globally.

Taking into account the time in which your test was taken, the Assistant Registrar considered the following in determining whether you meet the character requirements to register as a mental health nurse:

'...In your correspondence you stated that you chose to do your RNA CBT at Yunnik because it was the closest centre to the University of Benin Teaching Hospital, where you were working. You said that you weren't aware that inappropriate fraudulent activity was taking place at Yunnik.

I note you said that about 40 minutes before your CBT was due to start, [PRIVATE]. You continued to the test centre because you made a commitment and had paid for the test. At the test centre, you weren't given the option to cancel or re-book the CBT. I note you said you felt pressure to take the test which you now deeply regret.

You described completing identification checks before you entered an exam hall. You say that you achieved a pass in a fast time, despite the circumstances, [PRIVATE]. I understand you say that you had lessons and training in preparation for the exam.

You say that before you became aware of the NMC's investigation, you no longer pursued RNA registration, so you sat and passed an RNMH CBT. You are therefore not relying on the Yunnik CBT result as part of your RNMH registration application.

I've noted your reflections and I've carefully considered what you said about the impact this investigation is having on you and your ability to live and work in the UK as well as the challenges you have overcome. You said you feel stressed and embarrassed that your integrity is under assessment. Your references are positive, and I specifically note that ... speaks highly about you and the role you have undertaken at Priory Ticehurst House, since 4 March 2024.

I've considered the reasons you have given for why you chose to sit your CBT at the Yunnik test centre in Ibadan and also that by completing the identification process that you say your test was obtained genuinely. I've had regard to the first witness statement of [Witness 4], which was sent to you in the bundle of evidence. I accept that booking behaviours (and questionable check-in photos for a limited number of cases) are some factors of concern that indicates that a pattern of fraud was likely taking place at Yunnik. ...

In considering whether you meet the character requirements for RNMH registration, I've considered the concern that you likely obtained a pass on the RNA CBT on 14 October 2022 at Yunnik, in an exceptionally quick time by use of fraud. I note that you are not relying on your original Yunnik CBT result for registration however I consider it is relevant to my assessment as to whether you meet the character requirement for registration.

You have demonstrated that you meet the standard of proficiency required for NMC registration by having passed a subsequent RNMH CBT on 21 July 2023, however, this doesn't explain how you were able

to obtain your test result from Yunnik in the time you did when comparing it against times taken by candidates globally.

I considered your comments regarding the preparation that you undertook for the CBT exam, and that it's because of this you answered the questions quickly despite the circumstances. I accept that thorough preparation undertaken by any candidate may increase the likelihood that they would achieve a pass. However, I do not consider that even thorough preparation and the pressure you may have faced to leave the test centre quickly can explain the very quick test time seen in your test.

I've considered the Registrar's decision with regards to the time in which you achieved your CBT test result at Yunnik, and I'm satisfied that I've not been presented with anything that changes the conclusion that it was more likely than not that you obtained your CBT test result fraudulently...'

The Assistant Registrar determined the matter as follows:

'...After carefully considering all information and evidence presented to me, I decided that you didn't meet the character requirements for registration. I consider that your conduct, would breach one of the fundamental requirements of our code:

- Standard 20 - Promote professionalism and trust.*

To promote professionalism and trust, you're required to display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.

I consider that obtaining a CBT fraudulently to join the NMC register, falls well below the standard expected, raises serious concerns about your trustworthiness and has the potential to undermine public confidence in the profession. For these reasons, I'm not satisfied that you meet the character requirements for registration and as such, I'm refusing your application to join the NMC register...'

Therefore, 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.

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

From the NMC:

- Your completed application
- Expert reports by Mr 1, Head of Data Analytics at OAC
- Witness statements of Witness 4, Director of Information Security and Security Services at Pearson VUE
- Witness statements of Witness 3, Executive Director of Professional Practice at the NMC
- Witness statements of Witness 1 and Witness 2
- Other test activity at Yunnik on the date you sat your test

From you:

- Personal statement sent by email dated 20 August 2024
- Reference from Priory Ticehurst House
- Reference from St Michael Catholic Church
- Reference from Government of Imo State
- Reference from University of Benin Teaching Hospital
- Medical report from Divine Concept Hospital

- [PRIVATE]

Following the NMC's decision to refuse your Application, you stated that you worked hard to study and pass your exams, and as a result managed to achieve what you wanted. You wrote to the Assistant Registrar explaining that you had your test booked for 14 October 2022, and on that morning, whilst you were at the Test Centre you received a phone call from a friend [PRIVATE]. You gave evidence that your [PRIVATE]. You gave evidence that [PRIVATE], you aimed to complete the exams in a swift manner and achieved your results as you had extensively revised for the exams, as similar questions appeared when revising.

The Assistant Registrar who considered your explanation accepted that thorough preparation undertaken by any candidate may increase the likelihood that they would achieve a pass. However, in their view, this did not explain how you were able to obtain your test result from Yunnik in the time you did when comparing it against times taken by candidates globally. The Assistant Registrar therefore determined that you did not meet the character requirements to be considered capable of safe and effective practice.

On 2 September 2024, you were informed that the Assistant Registrar had refused your application onto the register. You appealed the decision on 26 September 2024, within the 28-day time limit.

Evidence

The panel also took account of oral evidence and a witness statement from the following witness on behalf of the NMC:

- Witness 5: Senior Nursing Education Advisor at the NMC.

The panel also took account of the written evidence and witness statements including from the following witnesses on behalf of the NMC:

- Witness 1: Anonymous Nurse
- Witness 2: Anonymous Nurse
- Mr 1: An independent Data Analyst who provided the NMC with an analysis of the data provided by Pearson VUE.
- Witness 3: Executive Director of Professional Practice.
- Witness 4: Director of Information Security and Security Services at Pearson VUE.
- Witness 5: Senior Nursing Education Advisor at the NMC.

Your evidence

You gave evidence under oath and relied on your statement dated 5 August 2025.

In summary you told the panel that you were born and raised in Edo State, Nigeria, and that on the day you were scheduled to take your resit exams, you travelled by car with a family member to the centre. You stated that on the first occasion that you sat the exams, you were visiting your fiancé and took the test at a centre near where he stayed. You stated that on this occasion, you checked and Yunnik was the nearest test centre to your work.

You told the panel that you had to pay for the test in '*pounds*', and that you did not have access to a bank account that could facilitate paying in pounds, so you took the route of making payment directly to the test centre. You also told the panel that you transferred funds to an unknown male's account, and that you cannot remember who it was, but that you were under the impression that this unknown person was in charge of registrations at the test centre.

You told the panel that if there was no availability at Yunnik, you would have waited until times and dates became available, as it would be easier for you to attend that centre. You also said that you used groups advertised on Telegram where other individuals would also join to revise for these exams and share any questions relating to the contents of the exam. On the day of the exam, you told the panel that you departed your home at approximately 3am with your '*cousin brother*', as he was also heading in the same direction.

You told the panel when you arrived, just short of 7:00 the centre was closed. You said that you received a call [PRIVATE], but that you were then advised by your mother to sit your exam [PRIVATE].

You told the panel that you informed the test centre of your family emergency, but that you were told you could not reschedule your exam at such short notice. Following your arrival at the centre it did not open for one hour and thirty minutes due to the late arrival of the staff member. You told the panel that [PRIVATE].

Regarding the CBT on 14 October 2022, you could not recall how long you spent on the test. You said you had encountered similar questions during practice; therefore, you could answer them quickly. You confirmed that your experience as a nurse in Nigeria had assisted you in answering questions. You stated that you chose not to review your answers before finishing because you were confident in your performance and [PRIVATE]. You further told the panel that you are of the view that everyone has a different way of learning and memorising things. You stated that when you read passages, you were able to recall information quickly, and when you failed, you quickly picked up your errors.

You told the panel that you wished to practise overseas, namely in the United Kingdom, and that it has always been a dream for you. You also said that you worked extremely hard to achieve your scores and that you wish to work as a registered nurse in the UK.

You gave evidence about the testimonials you had provided and your current positive experience as a health care assistant in the UK.

The panel heard submissions from both parties.

The panel accepted the advice of the legal assessor.

Panel's decision

In making its decision, the panel took into account all the oral and documentary evidence in this case including the submissions of Ms Khan, your oral evidence, Witness 5's oral evidence, and the submissions of Ms Thomas.

The panel first considered whether it had sufficient evidence before it to substantiate the NMC's case that there was widespread fraud occurring at the Yunnik Centre.

The panel had sight of the analysis provided by Mr 1 and Witness 4, including diagrams which evidence the time taken globally, including at other centres in Nigeria, to complete the CBT, compared to the times achieved at the Yunnik Centre.

The panel determined that there is sufficient evidence to prove that there was widespread fraud at the Yunnik Centre. It found the generic evidence compelling, including statistical anomalies, witness statements and patterns of suspicious behaviour. This included:

- Witness statements and admissions by several candidates describing proxy test-taking and intimidation.
- Unusually fast test completion times, suggesting interference.
- Analysis by Mr 1 and Witness 4 confirming significant discrepancies.

Considering all this information, the panel was satisfied, on the balance of probabilities, that there is sufficient evidence to support the claim that widespread fraud occurred at the Yunnik Centre.

The panel considered the expert evidence from Mr 1 in relation to your specific data, which provided the following odds of how achievable your test times were:

“Evaluated Clinical Timing: 13.83 minutes: Odds 1 in 28292.5”

This analysis identifies that, as result of your test time, it is likely that you used a proxy tester at the Yunnik Centre.

The panel took into account the documents you submitted:

- Personal statement sent by email dated 20 August 2024
- Reference from Priory Ticehurst House
- Reference from St Michael Catholic Church
- Reference from Government of Imo State
- Reference from University of Benin Teaching Hospital
- Medical report from Divine Concept Hospital
- [PRIVATE]
- A witness statement produced for your appeal dated 2025
- Practice material
- A testimonial from the Priory Hospital
- Your award nomination from the Priory Hospital
- Your CV
- A positive reference from a consultant psychiatrist in relation to your work as a nurse in Nigeria

The panel noted that you had taken the CBT test one month earlier and it took you a significantly longer time to complete it. It noted that you subsequently went on to pass the CBT mental health test and the OSCE test. The panel also noted the positive testimonials

before it. However, the panel found no plausible explanation as to how you completed the test so quickly, even taking into account that you said you prepared diligently.

The panel considered both your evidence and the expert evidence of Mr 1 in determining whether you had been engaged in fraudulent activity in obtaining the test result on 14 October 2022. The panel referred to the written documentation supplied by Mr 1 and preferred this evidence to your oral evidence in determining on the balance of probabilities that you had engaged in fraudulent activity in obtaining your test result.

The panel having taken into account the evidence from Mr 1 was satisfied on the evidence before it, that it was more likely than not that you used a proxy tester to obtain your clinical CBT result at the Yunnik Test Centre.

Finally, 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 we take into account when considering character cases*', last updated on 5 September 2024. The panel was aware that it was for you to satisfy the panel that you meet the character requirements for successful admission on the register.

The panel recognised that you are an experienced nurse with a career of approximately seven years in the profession in Nigeria. It also noted your positive testimonials and that you subsequently passed the CBT and OSCE tests.

However, in light of its earlier findings, the panel determined that your actions in fraudulently obtaining your exam results were in breach of one of the core tenets of the nursing profession, honesty. The panel had regard to The Code paragraph 20 '*uphold the reputation of your profession at all times.*' Honesty is fundamental to nursing practice, as it ensures public trust and patient safety. The panel considered that engaging in dishonest behaviour, has the potential to put patients at risk and there is potential to damage public confidence in the profession and its regulator.

The panel determined that, due to your fraudulent conduct, you have not met the character requirements for admission to the NMC register.

The panel therefore dismisses your appeal and upholds the decision of the Assistant Registrar, thereby refusing you application to the NMC register.

You have the right to appeal this decision. If you appeal the decision, you must submit your appeal to the county court within 21 days of this decision.

This will be confirmed to you in writing.

That concludes this determination.