

**Nursing and Midwifery Council  
Investigating Committee**

**Registration Appeal Hearing  
Friday, 20 June 2025 – Monday, 23 June 2025**

Virtual Hearing

<b>Name of Appellant:</b>	<b>Oluwakemi Ogunwa</b>
<b>Type of case:</b>	Registrations appeal
<b>Panel members:</b>	Godfried Attafua (Chair, registrant member) Georgia Kontosorou (Registrant member) Leon Jacobs (Lay member)
<b>Legal Assessor:</b>	John Bassett
<b>Hearings Coordinator:</b>	Stanley Udealor
<b>Nursing and Midwifery Council:</b>	Represented by Mousumi Chowdhury, Case Presenter
<b>Mrs Ogunwa:</b>	Present and represented by Harry Dickens, counsel instructed by the Royal College of Nursing (RCN)
<b>Decision:</b>	<b>Appeal dismissed</b>

## **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 19 August 2024, who refused 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.

## **Background**

On 16 March 2023, Pearson VUE, the NMC's computer-based test (CBT) provider, alerted it 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 Mr 1, 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.

The data analysis from Mr 1, in relation to your CBT, shows that you achieved a pass in your tests in the following time periods:

- Numeracy: 7.28 minutes (Time allocated for test: 30 minutes)
- Clinical: 12.48 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 genuine 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.

When considering your first application to the register, the Assistant Registrar, in their letter dated 7 December 2023, took into account the following documentation:

From the NMC:

- Your completed application
- The 'evidence bundle' consisting of:
  - Mr 1's expert report
  - Witness statement of Witness 3 from Pearson VUE
  - Witness statement of Ms 1 of the NMC

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 determined that you did not meet the character requirements to be considered capable of safe and effective practice and therefore refused your application.

You again applied for registration in July 2024. When considering your second application to the register, the Assistant Registrar, in their letter dated 19 August 2024, took into account the following documentation:

From the NMC:

- Your completed application
- The Assistant Registrar's letter to you dated 7 December 2023
- The 'evidence bundle' consisting of:
  - Mr 1's expert report
  - Witness statement of Witness 3 from Pearson VUE
  - Witness statement of Ms 1 of the NMC
  - Witness statements of Witnesses 1 and 2
- Other test activity at Yunnik on the date you sat your test

From you:

- Email dated 26 July 2024 with attachments including your reflections dated 18 July 2024.
- Character references.

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 determined that you did not meet the character requirements to be considered capable of safe and effective practice and therefore refused your application.

On 10 September 2024, you appealed the decision of the Assistant Registrar in a Notice of Appeal.

### **Agreed evidence**

At the outset of the hearing, Ms Chowdhury, on behalf of the NMC, informed the panel that you have accepted the respective witness statements and exhibits provided by Witnesses 1, 2, 3, and 4.

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

The panel accepted the legal assessor's advice.

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

## **Evidence**

You gave oral evidence under affirmation.

You stated that you are currently working as a Band 3 Support Worker. You told the panel that you had practised as a registered nurse in Nigeria for twenty-six years prior to your arrival at the United Kingdom (UK). You told the panel that when you wanted to register for the CBT, you made a telephone call to the Yunnik centre to enquire about the payment of the registration fee using the Nigerian currency (naira) as you did not have a UK bank account or the UK currency (pounds). You stated that the owner of the Yunnik centre directed you to pay 100000 naira including commission to facilitate the payment of your registration fee.

You informed the panel that you took and passed the CBT in 2019 but you could not proceed with your registration application due to the coronavirus pandemic in 2020. Thus, the CBT result expired after two years. You stated that the CBT you took in 2019 was different from that taken in 2022 as the clinical and numeracy questions in 2019 were not grouped into two parts but presented as one set of questions. You stated that you wrote that CBT in Lagos because your workplace at that time was closer to the CBT centre in Lagos and you had not heard about the Yunnik centre.

You said you previously undertook that CBT in Lagos, however, you decided to retake the CBT in Ibadan in 2022. You explained that you lived in Ikorodu, [PRIVATE]. Therefore, you chose to take the CBT in Ibadan [PRIVATE], it was closer to your home in Ikorodu (as it was one hour thirty minutes distance in contrast to three hours distance from your home to other centres in Lagos), and Ibadan was less congested. You chose the Yunnik centre based on recommendations from your friends who had taken their CBTs there, you also saw positive online reviews of the centre and there were open slots available at the centre for registration. You stated that you checked other CBT centres in Ibadan but there was no available slot.

You told the panel that you prepared adequately for your CBT at the Yunnik centre. You stated that you used various practice materials from Pearson Vue website and the NMC website. You also utilised the services of Mentor Merlin, an online free service offering personalised CBT and OSCE training for those seeking to become a registered nurse in the UK. You took and passed several mock exams with Mentor Merlin. You asserted that due to your level of preparations, coupled with your experience as a registered nurse in Nigeria, you found the questions in your CBT at the Yunnik centre to be less difficult as you were very familiar with the pattern of questions.

You provided a detailed account to the panel on what transpired before and during your CBT at the Yunnik centre. You stated that although your CBT was scheduled to commence at 10:00, you arrived at the centre at 8:30. You stated that it was not difficult for you to locate the centre as you were very familiar with the Ibadan environment. At the Yunnik centre, you met four persons; one elderly man who was the owner of the centre, two young men who were the technical support staff and a woman who was the cleaner at the centre. You stated that you pleaded with the owner of the centre to allow you take your CBT earlier than scheduled as you had some school lectures that morning. You told the panel that the owner of the centre agreed with your request and conduct the required inspection checks on your documents.

You stated that you were taken to the test room where there were two computers. You met another candidate who was separated from you via a wooden panel. When you were allocated a computer, you had some technical difficulties in starting your computer and

you requested assistance from one of the technical support staff. When the issue was resolved, you noticed that your CBT questions did not appear on the screen instantly and the technical support staff told you to wait for a short period before the questions would appear on your screen. When they did, he further asked whether you needed any further assistance, to which you replied in the negative.

You told the panel that you took your test and submitted your answers without rechecking them. You stated that you were very confident that they were accurate and you did not keep track of the duration of time you took in answering the questions. You were also not aware of the time estimate provided for each part of the CBT nor did you note the exact time you started the CBT.

You asserted that you did not witness any fraudulent activity at the Yunnik centre and no one offered to assist you with answering the questions nor pressurised you with an offer to use a proxy. You stated that you saw a big hall where other candidates were reading and preparing for the CBT and you did not see anybody being pressured or forced to use a proxy. You stated that although there were a lot of activities buzzing in your background in the course of your CBT, you did not pay attention to it.

You stated that when you received the NMC email regarding the concerns raised about your CBT result, you were in a state of shock [PRIVATE]. You stated that this affected your preparations for the resit CBT in the UK in November 2023, [PRIVATE]. Thus, you could not study adequately for the resit CBT. You stated that you only relied on residual knowledge and your past experience as a registered nurse in Nigeria, to take the resit CBT. You explained that this accounted for your slower test time in the resit CBT. You stated that you arrived in the UK without your family and only relied on the support from your employer in retaking the CBT. You clarified your statement in your reflective piece. You stated that you did not intend to suggest that the resit CBT to be more difficult than your previous CBT, [PRIVATE].

## **Submissions**

Ms Chowdhury highlighted that the burden of proof was on the NMC to prove that your CBT result was obtained fraudulently. She submitted that there were two issues to be

considered by the panel, namely, whether it is more likely than not that your CBT result was obtained fraudulently and whether you meet the character requirements to be considered capable of safe and effective practice.

Ms Chowdhury submitted that the NMC evidence demonstrated that the very fast test times coupled with other factors, such as your high-test scores, shows that your CBT result was likely obtained through fraud. She stated that when considering this question, it should be noted that there were some matters which were necessary to be considered and some matters which were not necessary to be considered. She submitted that it was not necessary for the panel to know the exact methodology of the fraud, so whether a proxy tester was sitting next to you, issuing oral instructions, or using the computer on your behalf. She submitted that it was also not necessary to consider whether there were multiple proxy testers at the centre on that day, or just one. It was also not necessary to speculate about the reasons why a candidate may have used a proxy.

Ms Chowdhury submitted that it was also not relevant whether you are a competent nurse today. She asserted that if the panel finds that your CBT result was obtained through fraud, it should dismiss this appeal.

Ms Chowdhury submitted that the NMC has provided generic evidence to demonstrate that there was widespread fraud occurring at the Yunnik centre. She referred the panel to the witness statements and reports made by Witness 3. She further referred the panel to the data analysis and reports made by Mr 1 and the witness statements of Witnesses 1 and 2.

Ms Chowdhury submitted that, in respect of specific evidence, the panel should consider the exceptionally fast times in which you completed your CBT, your high-test scores, the timing data, and the odds calculation, none of which had been challenged by you. She submitted that your test times were exceptionally fast compared to others undertaking the same test in the rest of the world and it should be noted that the Registrar had stated that this raises a prima facie case that the result has been obtained fraudulently.

Ms Chowdhury referred the panel to the analysis of your CBT result, made by Mr 1, in which he stated that the odds of completing the clinical part in 12.48 minutes are 1:



56,478, whilst the odds in completing the numeracy part in 7.28 minutes are 1:334.04. She argued that that it was therefore improbable that any honest test taker would complete the CBT test that quickly as an honest test taker would take their time with the test and likely spend time reviewing their answers. She further highlighted that there was no overlap between the practice materials and the CBT based on the analysis of Witness 3. Therefore, utilising the practice materials cannot explain the general pattern of quick test times at the Yunnik centre or how you completed the CBT so quickly. She asserted that whilst thorough preparation for a test makes it more likely that an individual will pass it, it does not account for the incredibly quick time taken when compared with the global benchmark population.

Ms Chowdhury referred the panel to the statement of agreed facts between the NMC and the Royal College of Nursing where the NMC made it clear to candidates who resat the that it would not use those results against a candidate if that candidate does not wish to disclose their results to the NMC. However, if a candidate does choose to rely on their recent results, it was open to the NMC and the relevant panel to scrutinise whether the recent times are so fast as to make it more likely than not that the candidate did not use a proxy in the Yunnik test. Ms Chowdhury highlighted that you had made reference to your resit CBT in your reflective statement and it was therefore a matter for the panel to decide on what weight it would attach to it.

Ms Chowdhury therefore invited the panel to find that the generic, specific and oral evidence demonstrates that you had obtained your CBT result fraudulently on 1 September 2022 and therefore you did not meet the character requirements to be admitted into the register. She invited the panel to dismiss your appeal.

Mr Dickens submitted that the burden of proof was on the NMC to prove that your CBT result was obtained fraudulently. He asserted that you did not use a proxy tester to obtain your CBT result as you are academically proficient and could pass the test without assistance. He submitted that you are a person of good and competent character. Mr Dickens referred the panel to your academic record and various testimonials made on your behalf. He highlighted that you have also been open and candid with your employer

about the concerns raised by the NMC on your CBT result obtained from the Yunnik centre.

Mr Dickens submitted that, if the panel finds that there was generic fraud at the Yunnik centre, you cannot be faulted or answer for any of the practices undertaken by those in charge of the Yunnik centre. He highlighted that you did not dispute the fast test times as alleged by the NMC as you only said that you did not keep track of time. He submitted that Mr 1's methodology and analysis does not take into account an individual candidate's ability, character or preparation, when collating his data.

Mr Dickens highlighted that the only direct evidence from the CBT taken on 1 September 2022 at the Yunnik centre comes from you as Witnesses 1 and 2's admissions did not cover that date. He submitted that their evidence was inconsistent with each other on some issues such as the level of pressure or aggression used at the Yunnik centre or how busy it was. He argued that the foundation of the NMC evidence was based on hearsay as neither the NMC nor Witness 3 attend the Yunnik centre to verify the data they had collated. He submitted that your account was direct evidence of what happened at the Yunnik centre and it was a matter for the panel to consider whether such evidence is credible. Mr Dickens asserted that it was somewhat unfair that those direct inquiries were not carried out by the NMC or Pearson Vue when such allegation of fraud would impact negatively on your career.

Mr Dickens submitted that although Witnesses 3 and 4 stated that there was little to no overlap between the practice materials and the CBT, you never stated that all the practice questions were the same with those in your CBT. He highlighted that you stated that the CBT questions were familiar as they were similar in the pattern and structure of the practice questions. Furthermore, he highlighted that the actual CBT questions were not presented in evidence to the panel in order to make a comparison with the practice questions.

Mr Dickens submitted that you provided a detailed account to the panel on what transpired before, and during your CBT at the Yunnik centre. You further gave a vivid description of the layout of the centre and the persons present at the time of your CBT. Mr Dickens submitted that you would not have been able to provide such level of detail if you were

being dishonest and this should be considered in your favour as it demonstrated that you were a credible and candid witness.

Mr Dickens submitted that the analysis by Mr 1 that you fall within the 1:2500 percentile and those within it used a proxy in their CBTs, does not present an infallible method in determining whether you used a proxy. He asserted that the evidence itself was presumptuous as it fills in the gaps based on assumptions that if there was generic fraud, every candidate participated in that fraud.

Mr Dickens highlighted that you have also provided vivid explanations for your slower test times in your resit CBT. He submitted [PRIVATE] that affected your resit CBT as given you had been penalised for taking your CBT too quickly, one may well worry about what doing it quickly again would mean, let alone doing it too slowly. You could therefore not be sure whether the NMC would be satisfied with either result. Mr Dickens invited the panel to not draw any negative inference from your slower test times in your resit CBT.

In conclusion, Mr Dickens submitted that you met the character requirements for admission to the NMC register and there was no evidence that you had used a proxy tester to obtain your CBT result on 1 September 2022. He therefore invited the panel to allow your appeal and quash the decision of the Assistant Registrar.

The panel accepted the advice of the legal assessor.

### **Panel's decision**

In reaching its decision, the panel took into account all the oral and documentary evidence in this case, including the submissions of Mr Dickens, your oral evidence and the submissions of Ms Chowdhury.

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 the Yunnik Centre at the time your test was taken.

The panel considered the witness statements of Witness 3, 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 took into account that Witness 3 noted several factors that suggest human interference rather than technical errors had occurred. Firstly, booking irregularities, as candidates frequently chose the Yunnik Centre over test centres closer to their residence, requiring long travel times to take their exams. Secondly, the speed of completion of exams were characteristic of a “*proficient proxy tester*” familiar with the exam content. Thirdly, the combination of low completion times and high scores implied that either an individual or a group, who is exceptionally proficient in taking the exams, completed them on the test taker’s behalf.

The panel also considered the report by Mr 1, an independent expert in data analytics, who conducted an independent evaluation of Pearson VUE’s CBT data at the request of the NMC. It found statistically significant evidence revealing that exam completion times at Centre 53579 (Yunnik) were considerably lower than those of a designated benchmark population across four out of six “*Non-Legacy*” test papers. This discrepancy was described as “*large*.”

The panel also considered that the histograms, contained within Mr 1’s report, illustrated that the anomalies in test performance in the clinical CBT were unique to the Yunnik Centre when compared to other centres in Nigeria and globally.

The panel took into account the evidence of Ms 1 in which she stated that sixteen persons had made admissions to using a proxy tester at the Yunnik Centre.

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 is 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 on 1 September 2022.

The panel took into account your explanation for selecting the Yunnik centre for your CBT on 1 September 2022 in spite of other test centres available in Ibadan and Lagos. The panel noted that the NMC did not provide any evidence to contradict your explanation. In this regard, the panel determined that you provided a plausible explanation for your selection of the Yunnik centre.

The panel considered your oral evidence on what transpired on the day of CBT in the Yunnik centre. The panel noted that you indicated that you arrived at the Yunnik centre for your CBT at around 8:30 and you undertook the relevant identification checks and you were led to your computer around 9:00. The panel also noted that you said that you were experiencing technical difficulties and were assisted for about ten to fifteen minutes before you started your CBT. However, the panel noted that the official data of your CBT start time, as obtained from Witness 5, stated that your CBT start time was 9:54.

The panel also noted that your evidence on the layout of the Yunnik centre, the persons present on the day of your CBT and the chronology of events were unclear, confusing and potentially contradictory.

The panel considered your explanation that you never checked the time duration for your CBT either before or during your test, nor did you observe the exact time it took for you to complete the test. The panel was of the view that such explanation seems implausible as it is reasonable to infer that any honest candidate that had adequately prepared for the CBT would be keenly aware of the time duration for their test and would have been time conscious throughout such test.

The panel took account of your evidence that you prepared adequately for your CBT by utilising practice materials you found online and the Pearson VUE question bank since 2019. You also stated that you utilised the services of Mentor Merlin, an online service offering personalised CBT and OSCE training for those seeking to become a registered

nurse in the UK. The panel had sight of the various practice materials you provided in these proceedings. The panel noted that such practice materials were available globally, but it was only in the Yunnik centre that CBTs were taken at exceptionally fast times. In the panel's judgement, your level of preparations does not sufficiently explain the exceptionally fast times you used in completing your CBT. Furthermore, there was insufficient evidence to demonstrate that you were an exceptional student and that you were proficient in taking exams to explain the fast times you took to complete the CBT.

The panel noted your resit CBT times of 21.98 minutes for the numeracy part and 82.88 minutes for the clinical part, completed on 10 November 2023 in the UK. The panel considered that your resit time for the numeracy part was almost three times as long, and for the clinical part, almost seven times as long. The panel noted that you took a significant longer time to complete your resit CBT in the UK, in contrast to your exceptionally fast times at the Yunnik centre. It took into account your explanations for such slower test times in the UK and acknowledged that you had written the resit CBT [PRIVATE]. Nevertheless, the panel was of the view that given your extensive experience as a registered nurse in Nigeria and that you had written the CBT twice (in 2019 and 2022), it was reasonable to expect that you would have completed your resit CBT within such test times closer to that achieved in the Yunnik centre, had your test at that centre been completed honestly by you.

The panel noted that four other candidates who took the CBT on the same day with you, also had exceptionally fast times. The panel determined that given its findings that there was generic fraud in the Yunnik centre, it was reasonable to infer that those candidates used proxy testers to take their CBT. In the panel's judgement, it was highly unlikely that you did not use proxy testers when those candidates had used proxy testers on the day of the CBT. The panel noted that you indicated that you had no underlying motive to engage a proxy tester. However, the panel was of the view that there were numerous reasons for a candidate to engage a proxy tester and it was not necessary for the panel to determine the motivation of such conduct.

Having considered the above factors and in the absence of any plausible explanation for your exceptionally fast times, the panel determined that it was 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 then went on to consider 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 had met the character requirements for admission to the NMC register.

The panel took into account the various testimonials made on your behalf and your reflective statements. It also took into account that you informed your employer about the concerns raised by the NMC and there were no issues about your competence.

Nevertheless, the panel bore in mind its finding that that it was 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 noted that you had several opportunities to be transparent about your fraudulent CBT result to the NMC but you failed to be open and honest on those occasions. The panel determined that your conduct demonstrated a lack of accountability and candour on your part.

The panel was of the view that there were several inconsistencies in your defence of your CBT result and how it was obtained. It considers honesty and integrity as fundamental tenets of the nursing profession. The panel was not satisfied that, should a similar or challenging situation in your nursing practice arise in the future, you would act with honesty and integrity.

The panel determined that your conduct in obtaining your CBT result fraudulently is a breach of the fundamental tenets of the nursing profession and public confidence in the nursing profession would be undermined if you were admitted into the register. Consequently, the panel was not satisfied that you are of sufficient character for safe and effective practice.

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.