

**Nursing and Midwifery Council
Investigating Committee**

Fraudulent/Incorrect Entry Hearing

**Wednesday, 18 February – Thursday, 19 February 2026
Tuesday, 14 April – Wednesday, 15 April 2026**

Virtual Hearing

Name of Registrant: Esther Temitayo Ayelabowo

NMC PIN: 23B0236O

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 03 February 2023

Relevant Location: Nigeria

Type of case: Incorrect/Fraudulent entry

Panel members: Judith Ebbrell (Chair, Registrant Member)
Georgia Kontosorou (Registrant Member)
Richard Carnell (Lay Member)

Legal Assessor: Nigel Ingram (18 – 19 February 2026)
Michael Hosford-Tanner (14 – 15 April 2026)

Hearings Coordinator: Zahra Khan (18 – 19 February 2026)
Angela Nkansa-Dwamena (14 – 15 April 2026)

Nursing and Midwifery Council: Represented by Nazmeen Imambaccus, Case
Presenter

Miss Ayelabowo: Present and represented by Neomi Bennett from
Equality 4 Black Nurses (E4BN)

Outcome: **Registration entry fraudulently made**

Direction: **Entry to be removed from the Register**

Interim Order: **Interim Suspension order (18 months)**

Details of charge

That you, as part of your application to join the NMC register (the Register):

1. Submitted or caused to be submitted, a Computer Based Test result, obtained at Yunnik Technologies Limited test centre (the test centre) on **29 March 2022**, that had been obtained through fraud.

And, in light of the above, your entry on the NMC register, in the name of **Esther Temitayo Ayelabowo, PIN 23B0236O**, was fraudulently procured.

Or, in the alternative,

That you, as part of your application to join the NMC register:

2. Submitted or caused to be submitted, a Computer Based Test result, obtained at Yunnik Technologies Limited test centre (the test centre) on **29 March 2022**, that was subsequently declared void by the NMC due to concerns about the manner in which tests were being conducted at the test centre.

And, in light of the above, your entry on the NMC register, in the name of **Esther Temitayo Ayelabowo, 23B0236O** was incorrectly made.

After the charges were read, Ms Bennett, on your behalf, informed the panel that you denied these charges and denied the use of a proxy.

Decision and reasons on application to admit hearsay evidence

The panel heard an application from Ms Imambaccus, on behalf of the Nursing and Midwifery Council (NMC), to admit hearsay evidence.

Ms Imambaccus applied for the admission of two witness statements as hearsay evidence, namely Witness 1 (page 246 of the Evidence Bundle) and Witness 2 (page 250 of the Evidence Bundle). She referred the panel to the written submissions of Rory Dunlop KC

dated 21 October 2024, which address the admissibility of hearsay evidence. Ms Imambaccus submitted that her oral submissions supplemented those written submissions.

Ms Imambaccus submitted that the panel should consider the relevance of the evidence and fairness when determining admissibility. By way of summary, she submitted that both witnesses are nurses currently on the Register who have experience of taking the test at the relevant test centre and using a proxy. She acknowledged that the evidence does not relate directly to your specific test sitting but submitted that it provides relevant background and contextual evidence regarding what was occurring at the test centre.

In relation to fairness, Ms Imambaccus submitted that both witnesses remain in employment and that their evidence has been relied upon in a number of cases involving the same test centre. She submitted that it would be disproportionate and unfair to require the witnesses to attend each hearing in person. She stated that their evidence would assist the panel in understanding the broader context.

Ms Imambaccus referred the panel to relevant case law cited in the written submissions, including the principles that whether hearsay evidence should be admitted depends on the circumstances of the case and that there is no absolute right to cross-examine witnesses. She directed the panel to the factors set out in the authorities and applied them to the present application.

Ms Imambaccus submitted that the evidence is not the sole or decisive evidence in the case, noting that there are admissions and analytical evidence before the panel and reiterated that the statements are relied upon to provide background context rather than direct evidence of your conduct.

Ms Imambaccus acknowledged that the witnesses do not speak directly to your test sitting and that you are unable to cross-examine them on that basis. However, she submitted that cross-examination would in any event be limited because the witnesses only speak to their own experiences.

Ms Imambaccus submitted that there is no evidence that either witness has fabricated their account and noted that both witnesses made admissions in relation to their own use of a proxy. In relation to non-attendance, she submitted that the statements are used across multiple cases involving the same test centre and that requiring attendance in each case would be disproportionate.

Ms Imambaccus accepted that no steps had been taken to secure attendance but submitted that you have had prior notice that the NMC intended to rely on these statements as hearsay evidence.

For these reasons, Ms Imambaccus invited the panel to admit both witness statements as hearsay evidence.

The panel also heard submissions from Ms Bennett.

Ms Bennett submitted that you do not object in principle to the admissibility of the statements. However, she submitted that the statements carry little or no probative weight in determining the charges before the panel. She submitted that the statements relate to the conduct of other individuals at the test centre and do not name you, describe your conduct, identify who sat at your terminal, or link you to any proxy arrangement.

Ms Bennett submitted that the statements are untested hearsay which cannot be challenged by cross-examination in this case. She submitted that their relevance is limited to generic background regarding the test centre. Ms Bennett reminded the panel that it must determine whether you fraudulently procured your CBT or whether an incorrect entry was made and submitted that the statements do not assist with that central issue.

Ms Bennett submitted that attaching weight to the statements as evidence against you would risk substituting association for proof.

The panel accepted the advice of the legal assessor.

The panel first considered whether the hearsay evidence was admissible. It reminded itself that the question of admissibility is a two-stage process: first, whether the evidence should be admitted, and second, what weight, if any, should be attached to it.

Having considered the submissions made by both parties and the relevant legal principles, the panel determined that the witness statements are admissible as hearsay evidence. The panel was satisfied that the evidence is relevant, as it provides contextual background regarding proxy test-taking at the relevant test centre.

The panel then went on to consider the weight to attach to the evidence. It bore in mind that the statements do not relate directly to your specific test sitting and that they have not been tested by cross-examination.

The panel was satisfied that the hearsay evidence is not the sole or decisive evidence in this case. It noted that there is other evidence before it, including admissions and analytical material. The panel considered that the statements are capable of providing corroborative context in relation to the wider issue of proxy testing at the test centre.

In these circumstances, the panel determined that the evidence is relevant and capable of being reliable in the limited context for which it is relied upon. The panel therefore decided that it can attach appropriate weight to the hearsay evidence at this stage.

Background

Pearson VUE have a contract with the NMC as their Computer Based Test (CBT) provider which has been in place since 2014. CBT is one part of the NMC's Test of Competence (ToC) and is used by the NMC to assess the skills and knowledge of people wanting to join the NMC's register from overseas as a nurse, midwife or nursing associate or re-join the Register after a long period away from practice. The second part of the ToC is an objective structured clinical examination (OSCE) – a practical examination.

The current CBT, created on 2 August 2021, is split into two parts (Part A and Part B). Part A contains a numeracy test consisting of 15 short answer questions and lasts for 30 minutes. Part B is a clinical test consisting of 100 multiple-choice questions and lasts for 2

hours and 30 minutes. All questions are scored as either correct or incorrect and there is no partial credit.

Pearson VUE contracted with a third party, Yunnik Technologies Ltd, in relation to a Pearson VUE Authorised Test Centre (PVTC) in Ibadan (the Yunnik centre), Nigeria. This testing centre is where the concerns in this matter relate.

Pearson VUE has control over the technology, but the environment is owned/controlled by the test centre and personnel are test centre employees. PVTCs and PVTC Selects are contractually required to adhere to specific Pearson VUE standards for delivery and operations.

Pearson Professional Centres (PPCs) and PVTC Selects also have the additional security measures of biometrics (palm vein) and CCTV footage which are not available in PVTCs, and specifically not available at the Yunnik centre.

On 15 March 2023, Pearson VUE identified that the Yunnik centre was delivering NMC CBTs for multiple candidates in unusually short test times (exam length is 3 hours for Part A and Part B combined and indeed had also been 3 hours for the previous Legacy test). The number of candidates was initially unknown.

The NMC was notified, and the Pearson VUE results team ran a report from January 2022, for all NMC exams that were delivered at the Yunnik centre. This report identified a suspicious level of activity. A security review was also conducted which found several instances of the Yunnik centre submitting suspicious admission photos for NMC candidates.

Pearson VUE conducted a thorough and detailed investigation into the Yunnik centre and identified testing anomalies. They found that the data set for the period between 15 March 2019 and 31 March 2023 indicated a specific pattern of probable fraudulent behaviour, likely to be proficient proxy testing, which was not present in other test centres globally.

Pearson VUE's investigation also concluded that there was no technical error at the Yunnik centre that had led to the data set and that human interference was involved.

The NMC commissioned a report from Richard Steele, instructed as an independent expert to analyse and report on data provided by the NMC. He reached essentially the same conclusion, namely, that there were a significant number of exceptionally quick test times at the Yunnik centre, compared to global averages.

On 3 August 2023, the NMC's Registrar decided to use as a benchmark the 1 in 2,500 percentile, in order to identify tests which were taken at such a speed that it is likely that the results had been fraudulently obtained (most likely utilising a proxy test taker).

Because of the evidence of widespread fraudulent activity at the Yunnik centre, the NMC was unable to be confident in any of the CBT results obtained at the Yunnik centre. The Registrar therefore considered all CBT results obtained there to be invalid and that the safest, fairest, and most proportionate way to deal with this was to ask everyone who sat their CBT at the Yunnik centre, to take a new CBT. In the absence of a valid CBT an individual should not have been allowed entry to the NMC register.

On 29 March 2022, you completed the CBT test at the Yunnik centre.

The Pearson VUE raw data provided by Bryan Friess (Mr Friess) had your timings as follows:

- Numeracy: 6.2 minutes (Time allocated for test: 30 minutes)
- Clinical: 10.68 minutes (Time allocated for test: 150 minutes)

Following Richard Steele's (Mr Steele) analysis, which excluded the times taken in introductory and review screens, he cited that the actual times taken to complete your CBT on 29 March 2022 were as follows:

- Numeracy: 5 minutes and 48 seconds (Time allocated for test: 30 minutes)
- Clinical: 9 minutes and 25 seconds (Time allocated for test: 150 minutes)

It is the NMC's case that the reason you were able to complete the test so quickly was because it was undertaken using fraud.

Closing submissions

Ms Imambaccus submitted that the NMC bears the burden of proving that you obtained your CBT result through fraud at the Yunnik centre. She submitted that the standard of proof is the balance of probabilities, whether it is more likely than not that a registrant procured entry to the NMC register dishonestly. She referred to the legal principles outlined in Rory Dunlop KC's written submissions, which are adopted by the NMC.

Ms Imambaccus submitted that it is accepted that you submitted your CBT result obtained on 29 March 2022, but the central issue is whether that result was obtained honestly. She submitted that the evidence from the panel, including the expert evidence of Mr Friess and Mr Steele, establishes that your result was obtained through fraudulent means.

Ms Imambaccus submitted that there are several matters that the panel does not need to determine such as, whether a proxy sat beside you, provided instructions, or operated the computer. She also stated that it is also unnecessary to determine whether multiple proxies were used on the day in question, or to speculate about your motivations for using one. She submitted that evidence from other candidates shows that some felt pressured to use a proxy, while others proactively sought assistance. Ms Imambaccus referred to the submissions of Mr Dunlop KC, which states that there are many reasons why a person may use a proxy and that even capable or well-prepared candidates may cheat. She further submitted that your competence as a nurse is also irrelevant.

Ms Imambaccus referred to the judgment of the Upper Tribunal (Immigration and Asylum Chamber) in *DK and RK v Secretary of State for the Home Department* [2022] UKUT 112 (IAC) and submitted that generic evidence of widespread proxy use at a particular test centre, when combined with data analysis identifying an individual as falling within the fraudulent group, may be sufficient to prove fraud on the balance of probabilities and an eyewitness is not required. She submitted that while generic evidence can be countered by credible contrary evidence, a mere denial is likely to be insufficient. She submitted that in this case, you have only offered a denial and have provided no evidence to undermine the NMC's case.

Ms Imambaccus submitted that the generic evidence of widespread fraud at the Yunnik Centre is compelling, as multiple witnesses confirmed the use of human proxies and there are now 37 admissions from other candidates, many of whom achieved similarly fast completion times. These admissions support the expert evidence. She submitted that the expert evidence is clear and unchallenged. Both Mr Friess and Mr Steele confirmed the accuracy and integrity of the Pearson VUE data and explained that completing questions at a pace of 15 seconds per item is already considered fast, and maintaining such a pace across an entire exam is almost impossible for an honest test taker.

Ms Imambaccus highlighted that your timings were far beyond this threshold as you completed the 100-question clinical test in 9 minutes and 25 seconds, with more than two-thirds of questions answered correctly in six seconds or less. She submitted that the statistical likelihood of achieving this honestly was approximately 1 in 56,478. Your numeracy test was completed in 5 minutes and 48 seconds, with the odds of 1 in 1781.3 however, these timings were not challenged.

Ms Imambaccus submitted that when compared with national and global benchmarks, your results are extreme outliers. She submitted that no other candidate in Nigeria or globally completed the clinical test as quickly and only 0.03% of Nigerian candidates and 0.08% of global candidates completed the numeracy test in comparable times. She submitted that at the Yunnik centre, you were one of 513 candidates to pass at such statistically extraordinary speed, which strongly indicates proxy use.

Ms Imambaccus submitted that you have offered no explanation for your exceptionally fast timings, you did not give evidence and there is nothing before the panel to suggest that you were better prepared than the thousands of candidates worldwide who completed the same test at normal speeds. She submitted that the expert review of official practice papers confirms that these materials do not overlap with the live CBT and cannot account for your rapid completion times or the broader pattern observed at the Yunnik Centre.

Ms Imambaccus submitted that given the generic evidence of widespread fraud at the Yunnik Centre, the expert statistical analysis, the admissions from other candidates and your extreme outlier timings indicate that, on the balance of probabilities, you obtained your CBT result through fraudulent means. She submitted that there is no credible or

compelling evidence to the contrary therefore, the NMC has discharged its burden of proof.

Ms Bennett submitted that the central issue in this case is whether the NMC has proved, on the evidence, that you did not sit this test yourself. She submitted that the existence of concern arising from the data is not in dispute however, concern alone is not the test. The panel must determine whether the NMC has discharged its burden of proving that you were the genuine test taker. She submitted that the burden rests entirely on the NMC throughout and you are not required to prove your innocence.

Ms Bennett submitted that the NMC's case is wholly inferential as it relies on statistical modelling, system log analysis, comparison with practice materials, generic admissions by other candidates and centre-level pattern evidence. She submitted that none of these identifies you as having used a proxy. She submitted that there is no biometric identification, no CCTV footage, no facial recognition evidence, no failed identity check, no named proxy, no admission and no session-specific proof of impersonation.

Ms Bennett submitted that under cross-examination, both expert witnesses, Mr Friess and Mr Steele, accepted that they could not identify who physically sat at the terminal. The case therefore depends entirely on inference, and the panel must consider whether that inference is safe.

Ms Bennett submitted that Mr Steele was not present at the test centre and did not observe the test taker. His role was limited to analysing data supplied to him, and he accepted that his evidence was not direct evidence of fraud. She submitted that the statistical outputs depend on assumptions and the rarity figure presented is an inference rather than an observed fact. She stated that there is no validated false-positive rate before the panel and statistical rarity does not measure intent and rarity does not mean impossible. She further submitted that even a very rare result does not identify its cause and cannot establish who was present, answering the questions. A statistical anomaly may raise suspicion, but it does not constitute identity evidence and probability is not proof of impersonation.

Ms Bennett submitted that the system logs cannot identify the person who was at the terminal, as they record login, start time, navigation and end time, but they do not record a face, do not use biometrics, do not use facial recognition and do not record video. She referred to the evidence of Mr Friess, who accepted that the system data cannot confirm that the person who presented ID was the same person who completed the test, nor that the same person remained at the workstation. He could not identify a named proxy and even if the logs are accurate, they do not answer the core question of who sat the test.

Ms Bennett submitted that even if it is accepted that the evidence relating to practice materials shows that unofficial materials did not replicate the live question bank, it does not prove impersonation, another test taker, nor does it establish dishonesty. She submitted that eliminating one hypothesis is not proof of another and the burden remains on the NMC.

Ms Bennett submitted that the centre-level concerns do not amount to individual proof and even if irregularities occurred at the centre and other candidates used proxies, that does not prove that you did. She submitted that pattern is not attribution and that Mr Friess accepted that centre-level patterns cannot identify who sat at your terminal. She submitted that the admissions of other candidates also do not link you personally to a proxy. She submitted that each case must be proved on its own evidence, and there is no evidence linking you to impersonation.

Ms Bennett stated that the NMC invites the panel to move from unusual timing to suspicion, from suspicion to attribution, and from attribution to dishonesty. However, she submitted that the evidence does not safely reach you yourself, as each evidential strand stops short of identity. She submitted that the statistics, logs, centre evidence and admissions do not identify the test taker and the practice material evidence also does not identify the test taker. She submitted the even cumulatively, these strands do not become identity evidence and at their highest, they demonstrate anomaly, concern and pattern, but not proof.

Ms Bennett referred to the authority of *DK and RK* and submitted that the case involved a materially different evidential context, where there was a more direct link between individuals and proxy test taking. She submitted that in this case, there is no biometric

contradiction, no voice recognition evidence, no named proxy, no session-specific irregularity and no direct link between you and impersonation. Ms Bennett further submitted that you maintain that you sat your CBT by yourself, you are not required to prove your innocence, and the burden does not shift because you elected not to give oral evidence.

Ms Bennett submitted that reframing the allegation as an incorrect entry does not remove the evidential burden and that the identity issue remains central. She submitted that a generalised loss of confidence in a centre does not invalidate an individual's result without proof that the result was not genuinely theirs and that centre-level concern cannot substitute for individual proof.

Ms Bennett submitted that the NMC's own witnesses accepted that they cannot identify who sat the test, neither can the logs or the centre-level patterns. She submitted that statistical rarity also does not prove proxy use. She submitted that the NMC has not produced evidence identifying you as having used a proxy and it has not proved that you did not sit the test yourself. She submitted that the identity gap has not been closed and that statistical anomaly is not identity evidence. She submitted that the step from anomaly to personal dishonesty cannot safely be taken and for these reasons, the allegations should not be found proved.

Decision and reasons on the facts

The panel accepted the advice of the legal assessor.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Imambaccus and Ms Bennett.

The panel was aware that the burden of proof rests on the NMC throughout, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Bryan Friess: Director of Information Security and Security Services at Pearson VUE.
- Richard Steele: An independent Data Analyst who provided the NMC with an analysis of the data provided by Pearson VUE.

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

- Witness 1: Band 5 nurse in the UK who provided her experience sitting an exam at Yunnik.
- Witness 2: Band 4 Pre-registration nurse in the UK who provided her experience sitting an exam at Yunnik.
- Wendy Fowler: Employed by the NMC as the Nursing Education Adviser for Education Quality Assurance.
- Roxanne Burns: The Assistant Director for CBT Delivery and a member of the Executive Team for Professional Regulation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC and yourself.

Charge 1

That you, as part of your application to join the NMC register:

1. Submitted or caused to be submitted, a Computer Based Test result, obtained at Yunnik Technologies Limited test centre (the test centre) on **29 March 2022**, that had been obtained through fraud.

This charge is found proved.

In reaching this decision, the panel took account of the evidence of Mr Steele, Mr Friess, Witness 1, Witness 2, Wendy Fowler, Roxanne Burns and your evidence.

In her written statement Roxanne Burns, who adopted the evidence of her predecessor Sam Foster, provided the panel with reasons as to why the NMC needed to take action in regard to potential fraudulent activity at the test centre.

The panel further had regard to Mr Friess' written and oral evidence, in which he confirmed that Pearson VUE, following their investigations, concluded that the data gathered from the test centre was indicative of fraud undertaken by proxies. He stated that one of the key reasons for this conclusion was the speed upon which candidates were completing their tests. Mr Friess stated that Pearson VUE conducted an analysis of the time it was taking candidates to complete the tests at the test centre compared to the global benchmark.

Mr Friess also stated that Pearson VUE released one online practice test for the CBT on its website. He said that he believed the practice questions did not contain the same questions as the actual CBT. He confirmed that genuine candidates preparing for the CBT would not have seen the exam questions beforehand in any practice questions made available by Pearson VUE and that it was likely that only due to repeated exposure to the questions, did human proxies become proficient in completing the test, resulting in exceptionally fast test times.

The panel also took account of the evidence of Mr Steele and his analysis in his report titled *“Review of Pearson VUE Computer Based Test: Data for the Nursing and Midwifery Council”* dated 14 September 2023. His conclusion was that data showed that the test centre statistically had significantly lower test times than the global benchmark population. The report also determined that other centres in Nigeria matched the global times as well. It is not country specific, namely that Nigeria has remarkably fast results, it is purely the Yunnik test centre that had results with testing speeds significantly higher both within Nigeria and globally. The panel noted that your test time fell within the 1 in 2500 percentile threshold considered by the NMC as being obtained by fraudulent means, namely the use of a human proxy.

The panel also considered the witness statements of both Witness 1 and Witness 2. It noted that Witness 1 accepts that she used a proxy as she felt pressured to do so. Witness 2’s experience was different as she stated she did not use the proxy at the test centre. However, she stated that she was being shouted at with answers, threatened and felt pressured.

The panel was mindful that this amounted to hearsay as neither Witness 1 and Witness 2 had attended to give evidence at this hearing. As a result, there was no way to test the veracity of what is in their respective witness statements. It bore in mind that both Witness 1 and Witness 2 are providing their own personal experiences, they attended the test centre on different days than you did. Therefore, their accounts did not indicate that there was a proxy tester on the day you took the CBT. However, the panel was satisfied that both witness statements provided context to what was occurring at the Yunnik test centre, namely that there were some instances of fraud taking place.

The panel considered the NMC’s charge that you had obtained your CBT clinical result through fraud, and the allegation that the exceptional speed in which you completed the test was indicative of a human proxy being used. According to Mr Steele’s analysis, the odds of you completing the clinical section of the CBT at your time of 9.42 minutes was 1 in 56,478, globally. This suggested that no one else globally or in Nigeria, outside of the Yunnik Centre, achieved a test time faster than yours.

The panel had regard to your evidence that you completed the CBT yourself, without the use of a proxy tester. In your witness statement, you stated:

'...I therefore strongly and vehemently deny the allegations made against me. I dedicated considerable time to thoroughly prepare for the test, engaging in extensive reading and actively participating in various CBT study groups where past questions were comprehensively explored. It's worth noting that individuals who diligently studied and prepared for the CBT exam on the Pearson VUE website, particularly the numeracy section, should reasonably perform well...'

On the face of the evidence, it appears that the practice questions available on the internet were not the same as the actual CBT questions. However, the panel noted that these would have been accessible to all candidates in any event yet, your test times were statistical anomalies.

The panel also considered your academic transcripts, certificates and a testimonial from your employer dated 2 January 2026. However, the panel concluded that in the absence of further evidence, this was insufficient to explain why your test times were significantly faster than national and global benchmarks and indeed that your test time was the fastest in the world outside of the Yunnik Centre.

The panel noted that although your numeracy test time of 5.8 minutes did not fall within the 1 in 2,500 percentile threshold, it was still completed at a fast rate with 47 other candidates completing their test in and around this time globally.

The panel bore in mind that it had already concluded that there was fraud occurring at the test centre and concluded that the reason why you were able to complete the CBT so quickly was more likely than not due to the use of a human proxy test taker as there was no other honest explanation provided by you as to why or how you would have achieved this.

In light of the above the panel was satisfied that, on the balance of probabilities, you submitted or caused to be submitted, your CBT clinical test results, obtained at the test centre had been obtained through fraud.

The panel decided, for the above reasons, that in respect of each charge the entry on the Register in your name was fraudulently procured.

The panel accepted the advice of the legal assessor who referred it to the case of *Ivey v Genting Casinos* [2017] UKSC 67, in which Lord Hughes stated:

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

The panel bore in mind that for an entry to be fraudulent there must have been a deliberate attempt to mislead whereas an incorrect entry involves a mistake or genuine error. In all the circumstances, the panel concluded that you submitted that CBT with the intention of misleading the Assistant Registrar, with the knowledge that your test results were false, which an ordinary, decent member of the public would consider to be dishonest.

The panel therefore find this charge proved on the basis that your entry was fraudulently procured.

The panel therefore found that the entry on the Adult Nursing part of the NMC register in the name of Esther Temitayo Ayelabowo, PIN 23B0236O, was fraudulently procured.

Charge 2

Or, in the alternative,

That you, as part of your application to join the NMC register:

2. Submitted or caused to be submitted, a Computer Based Test result, obtained at Yunnik Technologies Limited test centre (the test centre) on **29 March 2022**, that was subsequently declared void by the NMC due to concerns about the manner in which tests were being conducted at the test centre.

Since this charge was drafted in the alternative to Charge 1, and the panel have found Charge 1 proved, it did not go on to consider Charge 2.

Decision and reasons on direction

Having determined that you had fraudulently procured an entry on the NMC's register, the panel went on to decide what direction, if any, to make under Article 26(7) of the 'Nursing and Midwifery Order 2001' (the Order).

Article 26(7) states:

'...If the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.'

Ms Imambaccus referred to the written submissions of Mr Dunlop KC, which contends that if the Investigating Committee finds that entry into the Register, was fraudulently procured or incorrectly made, a registrant should be removed from the Register. She submitted that removal from the Register does not prevent you from reapplying to join the Register once the 28-day appeal period has passed, but upon reapplication, evidence of personal mitigation may be relevant.

Ms Imambaccus invited the panel to direct that your entry on the Register should be removed under Article 26(7) of the Order. She submitted that given the panel's finding that

you acted dishonestly and obtained your CBT fraudulently and caused to submit your result with the intention of misleading the Assistant Registrar, the most appropriate action is removal from the Register in order to maintain the integrity of the Register and public confidence.

Ms Imambaccus submitted that only those who meet the character requirements for registration are entered onto the register and given the panel's findings, it would be inappropriate to allow you to remain on the Register.

Ms Imambaccus submitted that an amendment would not be appropriate in a case where there has been fraud and referred the panel to the NMC guidance to that effect.

Ms Bennett submitted that the question to now be considered is not whether fraud was proven, but if any regulatory action is necessary and proportionate under Article 26. She submitted that this stage is not about punishment, but about public protection, proportionality and the integrity of the Register and that regulation is protective and not punitive.

Ms Bennett submitted that the purpose of removal is to protect the public and maintain confidence in the profession, not to impose retribution for past wrongdoing. She submitted that there is no evidence before the panel that you present a clinical risk as there have been no concerns raised about your clinical competence, patient harm, dishonesty in your practice or any pattern of misconduct beyond this entry stage.

Ms Bennett informed the panel that you resat your CBT test in proper test conditions and passed and you also passed your OSCE. She submitted that the purpose of the CBT is to ensure competence and this has been satisfied. She submitted that no risk remains as this conduct was at the entry stage and not misconduct in your practice. She submitted that dishonesty in practice carries an immediate and direct risk to patients but as this occurred at the early stage of registration, there remains no risk especially since your resit has voided the results you obtained at the Yunnik Centre.

Ms Bennett submitted that the system has corrected itself and the public are protected and removal from the Register would not enhance public protection. She submitted that

removal would be career ending and is only reserved for cases where public confidence would be undermined. She submitted that the public would not consider a nurse who has legitimately passed a clinical risk.

Ms Bennett submitted that the competency requirements have been met and there has been no wider pattern of dishonesty since this historic examination event. She invited the panel not to direct a removal however, if action is required, an amendment would also be a proportionate response.

The panel heard and accepted the advice of the legal assessor.

The panel had careful regard to the NMC's guidance on 'What actions can we take if we prove an allegation of fraudulent or incorrect entry?', which set out that the Investigating Committee may decide there is no need to make an order removing the entry if: the entry was incorrect, there was no fraud or dishonesty, and there is no issue over any of the registration requirements that needs the specialist judgement of the Registrar. The guidance gives notice to the registrants and the public that an entry onto the Register obtained fraudulently by the registrant is likely to be followed by removal from the Register. The guidance refers to the fact that you can apply for readmission to the Register, when matters raised by Ms Bennett in mitigation, could be considered by the Registrar.

The panel previously found that your entry was fraudulently procured. It determined that it would be inappropriate to take no action as the matter before it was serious, involving dishonesty in your dealings with your regulator, and not of a trivial nature.

The panel also considered that an amendment was not appropriate in this case because it was not just a matter of you having made a factual error with regards to your entry on the Register and there was nothing within your entry such as, your date of entry, that could be amended.

The panel took account of your good character and testimonial. The panel recognised that the matters in this case do not raise issues about your clinical competence but rather, issues surrounding your character and dishonesty with your regulator. This is a serious matter, which can pose a risk to public protection and public confidence in the nursing

profession and the NMC as its regulator. The panel therefore decided to direct that your entry onto the Register be removed. It considered that removal of your entry on the Register was necessary and the only direction to maintain the public's trust in the profession and maintain the integrity of the Register.

You will be notified of this decision in writing. You have the right to appeal the decision under Article 38 of the order. This order cannot take effect until the end of the 28-day appeal period or, if an appeal is made, before the appeal has been concluded.

Decision and reasons on interim order

Having directed that the Registrar remove your entry from the Register, the panel then considered whether an interim order was required under Article 26(11) of the Order, in relation to the appeal period.

The panel took account of the submissions made by Ms Imambaccus and Ms Bennett.

Ms Imambaccus invited the panel to impose an interim suspension order for a period of 18 months, on the grounds of public protection and otherwise in the public interest. She submitted that an interim suspension order would be consistent with the panel's findings that your entry on the NMC register was fraudulently procured and its direction to have your entry removed from the Register.

Ms Imambaccus submitted that your conduct was dishonest and is considered to be difficult to put right therefore, there is a risk to patient safety if your practice was not restricted until your removal or during any possible appeal. She further submitted that serious damage would be caused to public confidence in the nursing profession if you were allowed to continue practising unrestricted, having found to have acted dishonestly to gain entry onto the Register.

Ms Bennet submitted that you have already been removed from the Register and that you have been in the process of trying to be readmitted, which has not happened. Therefore, you remain off the Register.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision on whether to impose an interim order, the panel had regard to the reasons set out in its decision on the facts and its decision to direct the Registrar to remove your entry from the Register. It also had regard to the NMC's published Guidance on Fraudulent and Incorrect Entry cases. It noted that the imposition of an interim order is not an automatic outcome but is a matter for the panel's discretion in the circumstances of the case, having regard to the public interest in maintaining the integrity of the register. It also had regard to Article 31 of the Order and the NMC's Guidance on interim orders.

The panel was satisfied that an interim order is necessary for the protection of the public and otherwise in the public interest. The panel considered whether to impose an interim conditions of practice order. The panel had regard to the seriousness of the charge found proved, the public interest considerations, and the reasons set out in its decision for the direction in reaching the decision to impose an interim order. It determined that as this was a case concerning your integrity and honesty, an interim conditions of practice order was not workable or appropriate in this case, as no workable conditions could be devised in light of the nature of the finding. An interim suspension order would be consistent with the panel's order for your removal from the Register.

The panel considered that public confidence would be undermined if your practice was not restricted and that the public expect high standards of probity from registrants on the Register and that not imposing an interim order would be inconsistent with its earlier direction. Accordingly, the panel determined that an interim suspension order was necessary for the protection of the public and in the public interest to protect the reputation of the profession and the NMC as its regulator.

The panel therefore imposed an interim suspension order for a period of 18 months to allow for the possibility of an appeal to be made and determined.

If no appeal is made, then the interim order will lapse upon the removal of your entry from the Register 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.