

Report of the APPG on TOEIC

18 July 2019

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Foreword

It wasn't until a year after BBC Panorama discovered that some English language test centres were committing fraud, that I met the first student affected at my advice surgery. Since then, I have met many more. They have been treated appallingly.

I was invited to Chair the APPG on TOEIC earlier this year. At our first meeting, we resolved to hold an inquiry into the *"TOEIC scandal"*. We took evidence from students, their lawyers, technical experts and campaigners.

The US firm ETS obtained a Home Office licence to deliver its TOEIC test in the UK. One thing that struck me throughout our hearings was that evidence from ETS – the basis for denying visas to thousands of overseas students, often with catastrophic effects – quite simply could not be relied upon. The inquiry concluded that the evidence used against the students was confused, misleading, incomplete and unsafe.

Students had immense difficulty in obtaining crucial evidence. Those who did receive voice clips found that they were incomplete, and didn't correspond to the test they sat. And crucially, there was no metadata on the clips so it was impossible to confirm when or where the recording was made. Without *"evidence of continuity"*, a case of fraud cannot – and should not – be made.

The inquiry heard from lawyer Michael Biggs of 12 Old Square. He has worked on over 100 cases and concluded that the Government developed a process that made it as difficult as possible for those accused of TOEIC fraud to seek legal and financial redress.

Some students have – at great cost – managed to clear their names. However, universities still see them as a risk due to the nature of the allegations made against them. As things stand, and without help from the Government, their futures remain bleak. This report sets out crucial steps we believe the Government must now take.

Rt Hon Stephen Timms MP
Chair of the All-Party Parliamentary Group on TOEIC

Recommendations by the APPG on TOEIC

1. There must be no further detentions or forced removals of students accused of cheating in a TOEIC test;
2. People who lost their visas because ETS accused them of cheating should be allowed to sit a new, secure English language test, and, if they pass, their previous visa status (or today's equivalent) should be restored without charge, valid for at least 12 months;
3. The immigration record of every person who passes the new test should make clear that the allegation of cheating no longer stands;
4. Higher and further education institutions should be advised that the TOEIC allegation, and related issues such as a break in studies, should be wholly disregarded in assessing applications from these students;
5. A working group should be established to support students and facilitate their return to study, to support those on work or entrepreneur visas to find new jobs or restart their businesses, and to monitor this support process, with representatives from Home Office, UKVI, Department of Education, Department of Business, Energy and Industrial Strategy, UCAS, relevant third sector and student support organisations, and students themselves;
6. Financial support should be provided to enable students who lost their fees as a result of a TOEIC allegation to complete their studies;
7. The Home Office should work with High Commissions in relevant countries, including Pakistan, Bangladesh, and India, to ensure that those who have returned home or been forcibly removed are informed about these arrangements.

Introduction to the TOEIC issue

In February 2014, BBC Panorama revealed cheating by some international students on the Test of English for International Communication (TOEIC) at two London test centres. Some students were seen using proxies to sit their speaking tests and others were filmed being given the answers on a multiple choice reading test.¹

Over the following months, the Government responded by revoking and refusing the visas of tens of thousands of international students without presenting any evidence against them. Many were innocent but had no right to appeal in the UK. Some have spent the last five years in expensive legal battles in a desperate attempt to clear their names, while others are having to face a life branded as a fraud and struggling to access further study or a good job, or to get a visa for any other countries.

Despite mounting evidence of an immense injustice – from lawyers, judges, MPs, NGOs and, most recently, the National Audit Office – the Home Office has failed to admit its mistakes or to offer a solution.

Background

TOEIC was one of several Secure English Language Tests approved by the Home Office for use in Tier 4 (student visa) applications. A total of 58,458 students sat the test in the UK between 2011, when testing company Educational Testing Service (ETS) was first licensed by the Home Office, and 2014.

Following the Panorama broadcast in February 2014, the UK government asked ETS, the US-registered organisation that ran the test, to investigate, while also placing ETS and ETS Global BV (the company that operated the UK test centres) under criminal investigation. ETS used voice recognition software and two independent human “checkers” to analyse the recordings of every TOEIC speaking test undertaken in the UK between 2011 and 2014. Where the software and the two human listeners identified that the voice on multiple tests was the same, these tests were considered to have been sat by proxies and the results invalidated.

As a result of the investigation by ETS, the Home Office accused 33,725 students of cheating. Where they could be identified, their visas were immediately revoked or refused and they were told to leave the country. More than 2,400 were deported (a number that continues to rise). A further 22,694 students were considered to have probably cheated, where the software identified a match but this was corroborated by just one or neither of the human listeners, or where the majority of results at a test centre had already been “invalidated” due to the supposed use of proxies. Their test results were categorised as “questionable”.

¹ As of [30 April 2019](#), 25 people had received criminal convictions for organising and facilitating TOEIC fraud and been sentenced to a total of over 70 years' imprisonment.

Just 3% of the 58,458 test results were “released” as valid, while 97% of students were considered to have definitely or probably cheated. Despite the implausibility of these figures, the Home Office did not question them, but instead immediately began revoking the visas of those students with invalid tests.

Most were given no right to appeal the decision in the UK, but many students stayed to try to win that right through the courts. Most of them have never been shown any specific evidence against them, while the evidence the Home Office *has* presented is often deeply flawed. Students have been accused of cheating in one test centre, while having proof they sat the test in another. Others were accused having never sat the test at all. It is also clear that many of those affected can speak excellent English and most have previously passed much harder English language tests.

A number of recent media reports have highlighted the desperate situation of the students five years on.² Many of those who stayed in the UK to try and clear their names are destitute and suffering severe mental health problems. Most have not seen their families back home for at least five years and have missed weddings and funerals of close relatives. Many have contemplated or attempted suicide.

Those who have left the UK cannot start new courses, find good jobs or get a visa for any other country due to the black mark against their name. Many have also been rejected by their families, who have a strong belief in this country’s justice system and cannot believe the UK would treat an innocent person this way.

Those fighting their case from abroad have made little progress, due to problems with internet connections and video links. In December 2017, judges ruled that an out-of-country appeal was not a suitable remedy in TOEIC cases, but this is the only appeal route still allowed to most of the accused.

Many students are now appealing on human rights grounds, which is finally allowing them to appeal the original decision. But when they win, they are usually given just 60 days to find a new institution to sponsor them, an almost impossible task when the allegation remains on their record, leading universities to see them as a risk to their licence.

Recent events

In **July 2018**, Migrant Voice, Secretariat of this APPG, [published a report](#) on this issue, triggering a Westminster Hall debate in **September** that year. During that debate, Wes Streeting MP described the issue as “Britain’s forgotten immigration scandal.”

In **January** this year, around 100 of the affected students demonstrated at Westminster and were joined by several MPs. Since then, more than 40 MPs from all

² For example, see articles in [The Guardian](#), [The Financial Times](#), [The Independent](#) and [BBC](#). (See online version of this report for hyperlinks.)

parties have signed an [Early Day Motion](#), submitted by Stephen Timms MP, calling for action from the Home Secretary. In **March**, the All-Party Parliamentary Group on TOEIC had its inaugural meeting.

In **April**, the Home Secretary said, in response to a question from Stephen Timms MP in the House of Commons, that he had made “final decisions” on this matter and would announce these in due course. He had previously told MPs he is “sympathetic” on the issue.

In **May**, the National Audit Office (NAO) announced an investigation into the matter. Days later, the [Immigration Minister was questioned](#) on TOEIC following an Urgent Question by Stephen Timms MP. The Minister said that the Home Secretary would issue a statement after the NAO had published their report. That [report was published](#) later the same month and was deeply critical of the Home Office response to the allegations, concluding that: “while the Home Office acted “*vigorously*” to exclude individuals and shut down colleges involved in the cheating scandal, it failed to take an “*equally vigorous*” approach to protecting those who did not cheat but who were still caught up in the process”.

In **June**, this APPG on TOEIC held its inquiry in the form of four hearings. Later that month, the [Public Accounts Committee announced a further inquiry](#) into the TOEIC issue, issuing a request for written submissions. In **July**, the Committee took evidence from senior Home Office officials. During that hearing on 10 July, Sir Philip Rutnam, Permanent Secretary for the Home Office, said that the Home Secretary “firmly expects” to make a statement on the matter before the summer recess, which begins on 25 July.

About the APPG on TOEIC

The APPG on TOEIC had its inaugural meeting on 5 March 2019. It seeks to represent students whose visas have been refused, revoked or curtailed due to allegations of cheating on the TOEIC test based on the evidence provided by ETS.

The current members of the APPG are: Rushanara Ali MP, Hilary Benn MP, Lyn Brown MP, Ruth Cadbury MP, Martyn Day MP, Jim Fitzpatrick MP, Mike Gapes MP, Rupa Huq MP, Afzal Khan MP, Stuart C McDonald MP, Kate Osamor MP, Teresa Pearce MP, Naz Shah MP, Wes Streeting MP, Alison Thewliss MP, Gareth Thomas MP, Stephen Timms MP, Keith Vaz MP.

Secretariat support is provided by the charity Migrant Voice.

To date, the APPG has held four hearings, detailed below. The evidence taken in these hearings forms the substance of this report, which sheds light on a number of issues relating to the response of the Home Office to the Panorama documentary broadcast in February 2014.

- **Tuesday 4 June 2019, 10-11am: The impact on students**
Witnesses (all TOEIC students accused of cheating):
Sheikh Shariful Amin
Raja Noman Hussain
Mohammad Mohibullah
- **Tuesday 4 June 2019, 2-3pm: Views of the legal profession**
Witnesses:
Michael Biggs, Barrister at 12 Old Square who has dealt with around 100 TOEIC cases
Salima Budhani, Associate at Bindmans LLP, which has represented TOEIC students in a number of Judicial Review and appeals cases
Patrick Lewis, Barrister at Garden Court Chambers who has represented around a dozen TOEIC students
- **Tuesday 11 June 2019, 10-11am: Exploring the technical side of the scandal**
Witnesses:
Professor Peter French, expert in forensic speech and acoustics, commissioned by the Home Office in 2016 to respond to a report by Dr Philip Harrison on the ETS evidence
Dr Philip Harrison, forensic speech and acoustics consultant, commissioned by Bindmans LLP on behalf of the NUS in 2015 to assess the reliability of the ETS evidence
Professor Peter Sommer, digital forensics expert, instructed by Bindmans LLP in 2016 to provide expert evidence on the security of ETS computer and information systems

- **Tuesday 11 June 2019, 2-3pm: Views of the third sector**

Witnesses:

Joy Elliott-Bowman, was International Students staff member at the National Union of Students (NUS) in 2014-15, now at Independent Higher Education

Nazek Ramadan, Director of Migrant Voice, a charity that has supported and campaigned alongside the TOEIC students since 2017

(A third witness, Dr Anna Glinka of Royal Docks Medical Practice, was unable to attend due to illness.)

Two further hearings were scheduled for Tuesday 18 June 2019, at which ETS representatives, Home Office officials and the Home Secretary were invited to give evidence. ETS lawyers declined the invitation on behalf of their client. The receipt of the letter inviting Home Office official Rebecca Collings was acknowledged, but no other response was received from the Home Office.

Summary of key findings

1. Fundamental flaws in the evidence: All the experts agreed that the evidence provided by ETS to the Home Office is questionable, and all but one agreed that it contains fundamental flaws that should make it impossible to take decisions based on this evidence alone. Yet this is what the Home Office has done, disregarding huge numbers of anomalies and the lack of proof that links each recording to the person who sat that test (“*lack of continuity of the evidence*”). All three students who gave evidence spoke about fundamental factual errors in the Home Office evidence against them. **(1.1, 1.2)**

2. ‘Questionable’ students *not* given chance to sit new test: The Home Office has repeatedly insisted that ‘questionable’ students had no action taken against them without being offered the chance to sit a new test. But, according to evidence given to the APPG, thousands of questionable students were likely removed from their courses and the country in 2014 without that chance. Lists of students accused of definitely or likely cheating on TOEIC that were sent by the Home Office to the institutions where they were enrolled allegedly did not distinguish between ‘questionable’ and ‘invalid’ students. Most institutions, fearful of losing their licence, withdrew all students on the list, leaving them vulnerable to removal by the Home Office. In response to pressure from the National Union of Students to allow the ‘questionable’ students to sit a new test, the Home Office flatly refused. **(2.5)**

3. Home Office consulted experts confidentially in 2014 but ignored their advice: In August 2014, after thousands of students had already had action taken against them, the Home Office convened a confidential meeting of experts, which included voice recognition expert Professor Peter French. At that meeting, Home Office officials disclosed that they were unsure whether the evidence was robust enough to stand up in court and asked the experts whether it should be “*shored up*” or “*redone*”. What is clear from this is that the Home Office was content to use evidence that they suspected was not reliable to revoke the visas of tens of thousands of students and forcibly remove thousands from the country. Despite every expert at that meeting requesting more information in order to reliably assess the evidence, Professor French heard nothing more from the Home Office until February 2016. As of July 2019, Home Office officials are still refusing to admit publicly that the August 2014 meeting ever happened. **(2.3)**

4. Cornerstone of Government position undermined by expert who wrote it: The Home Office has relied extensively on a 2016 report by Professor Peter French, which concluded that the rate of “false positives” (individuals wrongly identified as having cheated) in the ETS checking process would be less than 1%. However, in evidence to the APPG, French stressed that his conclusion was only correct “*if the results that ETS had given the Home Office were correct*”. As explained in (1) above, all of the experts questioned the reliability of those results, casting significant doubt on the usefulness of that statistic, used so heavily by the Home Office in their defence. French also cautioned against using his conclusion to

argue that any particular student cheated, an approach the Home Office has used consistently. (2.3)

5. Home Office group established to support students failed: The Sponsorship Working Group (SWG), established by the Home Office to support students at institutions whose licences were revoked due to the TOEIC issue, was not chaired independently, but instead by Home Office official Peter Millington, the same man who was part of the delegation to ETS in June 2014 and whose witness statement has been used by the Home Office in every TOEIC case. Many members of the SWG were angry at the way the group was run and the lack of support offered to the students and wrote a letter to the Home Secretary to express this. But Peter Millington refused to sign and send the letter “*on the basis that he couldn’t write such a letter to his boss*”. So the concerns were never addressed. (2.6)

6. Home Office failure to look at anomalies in the evidence: Despite mounting evidence of a large number of anomalies in the ETS data and in individual cases, the Home Office has failed to investigate. One student accused of cheating remembers that a Home Office official was present in the room when he sat his test, but the Home Office has ignored the obvious implications of this and refused to drop the allegation. (2.2)

7. ETS is ‘a shambles’: A number of experts gave evidence regarding the administrative chaos at ETS (such as students receiving three or four tracking numbers through the process of booking, sitting and passing a TOEIC test) and the lack of any measures to check if tests were being run correctly. One expert described the company as “*a shambles*”. (1.2, 1.4, 1.5)

8. Students prevented from challenging the allegation: According to one lawyer – who has dealt with around 100 TOEIC cases – the Government “*pioneered a process that made it as difficult*” as possible for those accused of TOEIC fraud to clear their names, said Barrister Michael Biggs. They were left with “*no effective remedy*”. A second lawyer, who has worked in immigration law since 1992, described the TOEIC cases as “*exceptional*” in the lack of real remedy. (2.6, 3.1)

9. Students who have won appeals denied access to education: Students who have won their cases are still being denied access to UK education institutions, with rulings in their favour not regarded as “*clear judgements*” and their immigration records seen as a threat to the institution’s licence. At least one university has also refused help to a former student wrongly accused of cheating on the basis that to do so would be a threat to their licence. (4.1, 4.2)

10. Financial, emotional and family ruin for the students: The three students spoke movingly about the impact of the allegation on their lives. One student described the accusation as a “*cancer*” that hasn’t only damaged him, but also his whole family. (5.1, 5.2)

Partial Timeline

**Italicised, underlined text indicates new information uncovered by this APPG*

April 2011: Licence awarded to ETS to run a Secure English Language Test in the UK.

1 Feb 2014: Home Office speaks with NUS representatives about upcoming BBC Panorama documentary.

10 Feb 2014: Panorama documentary is broadcast, showing cheating at two out of the 96 ETS testing centres.

24 & 28 March 2014: ETS sends Home Office results of the analysis of the first batch of test centres. Home Office then starts to take action against individuals on those lists.

1 April 2014: Teleconference between ETS and Home Office to discuss first batch of analysis.

5 April 2014: ETS licence expires and is not renewed.

7 May 2014: Criminal investigations into ETS and ETS Global BV begin.

First week of June: Home Office delegation visits ETS offices in New Jersey.

24 June 2014: Lists of students accused of cheating (with no distinction between 'invalid' and 'questionable') are sent to universities; Immigration Minister James Brokenshire makes a statement in the House of Commons on TOEIC.

7 July 2014: First meeting of the Sponsorship Working Group (SWG), chaired by the Home Office, to support students whose institutions lost their licence as a result of the TOEIC issue.

July 2014: The Home Office first contacts Professor Peter French about this issue. He is invited to a meeting of experts the following month.

August 2014: The Home Office convenes a confidential meeting of experts to discuss whether the ETS evidence will stand up in court. The experts ask for a lot more information from ETS, which they never receive.

November 2014: Students who were not on a TOEIC list but lost their sponsor as a result of the TOEIC issue are informed by letter of support available to help them find a new sponsor.

5 February 2015: Dr Philip Harrison's report, commissioned by Bindmans LLP on behalf of the NUS, is published and concludes that there was not enough information available to assess the reliability of the software ETS used to identify fraudulent tests.

March 2015: Support programme (run by SWG) for students who lost their sponsor is closed.

February 2016: Professor Peter French is asked by the Home Office to produce a report, in response to Dr Philip Harrison's report the previous year.

February-December 2016: Home Affairs Select Committee gathers evidence for an inquiry.

Part One: ETS and the evidence

1.1 Errors in the evidence

The evidence used by the Home Office to revoke and refuse the visas of tens of thousands of international students took the form of several spreadsheets provided by the testing company, ETS. These were converted into a Home Office spreadsheet that was used to identify the students accused of cheating. Every expert questioned by the APPG raised serious concerns about the reliability of those spreadsheets, echoing the findings of the Home Affairs Select Committee, the National Audit Office and legal experts.

One concern relates to widespread errors in the spreadsheets created by ETS, often relating to students' nationalities, test dates and test centres. Digital forensics expert **Professor Peter Sommer** was instructed by Bindmans LLP in 2016 to assess the overall reliability of the evidence in light of these errors. He concluded, as he explained to the APPG, that:

“It was unsafe for anyone to rely upon computer files created by ETS and used by the Home Office as a sole means of making a decision.”

Sommer added later:

“There’s nothing wrong with evidence that is by itself unreliable if you can corroborate it with something else... But in this case, there was no corroboration.”

Yet the Home Office *has* used this unreliable evidence as the “sole means of making a decision” in tens of thousands of cases since 2014, and continues to do so.

All three students who gave evidence have been provided with the data from the Home Office spreadsheet that supposedly incriminates them and all three have found fundamental errors in that data.

For **Sheikh Shariful Amin** and **Mohammad Mohibullah**, the date they sat their TOEIC test is incorrect. For **Amin** and **Raja Noman Hussain**, the Home Office data wrongly states they sat their tests in Leicester, when neither has ever visited that city and they have evidence they took the test in London. Hussain’s nationality is also listed incorrectly – he is from Pakistan but the spreadsheet lists him as a Bangladeshi national.

The implication is that, if such fundamental parts of the data set are incorrect, how can ETS or the Home Office be sure that the data linking each student to a fraudulent test is correct, or even reliable?

1.2 No 'chain of custody' for the voice files

A second concern relates to the lack of evidence linking any particular voice file from a TOEIC speaking test to a particular individual. Speaking about the difficulty of tracing voice files back to the students who sat the test, forensic speech and acoustics consultant **Dr Philip Harrison** said:

“There’s a lack of continuity of the evidence – there’s not a chain of custody there that you would normally expect to see in a criminal trial.”

Professor Peter Sommer made a similar point, expressing concern that audit trails – which would allow a recording to be tracked from the person whose voice appears on it and the computer they used, through the ETS systems, and back again – “were simply not present”. He explained:

“At one stage ETS were saying, ‘Oh, we can look at the file name and it will tell us who the original testee was’, and actually, when one came to look at the file names, that was an unsubstantiated remark. So, one of the many hypotheses of where things went wrong... is that the voice files came adrift from the identity of the people who were actually being tested.”

Even the use of cheap webcams on test computers or CCTV in the testing rooms would have helped the process of tracing a recording back to an individual – but these “trivially simple” solutions weren’t in place, **Sommer** explained.

Asked if he thought the Home Office should have ensured that audit arrangements were in place, **Sommer** said, “the obvious answer is, yes, they should have done so,” adding that he guessed the contract was issued by people who did not have much experience and did not expect things to go wrong.

Evidence given by **Joy Elliott-Bowman**, the International Students staff member at the National Union of Students (NUS) in 2014-15 and the key liaison between TOEIC students and the Home Office at that time, lends credence to the theory that ETS was unable to reliably link students with their voice files. Instead of having a single tracking number that was linked with the student through the process – from booking to taking the test to receiving a certificate – students were given “random numbers... throughout that process”, Elliott-Bowman explained.

“Students were getting three, four different numbers – a number at the beginning, a number for each phase, and a different number again on the certificate.”

She continued:

“Either that was done intentionally in an effort to confuse the system, to allow the fraud to remain undetected, and allowing these fraudulent centres to use one test multiple times, one voice recording multiple times – or it was

incompetence. In either situation, it would catch students who had not committed fraud, but who had genuinely sat the test.”

1.3 Voice files not disclosed

It's well known that few students were initially able to obtain the voice files from ETS that supposedly incriminated them. **Joy Elliott-Bowman** confirmed that very few voice recordings were released in the first months:

“We had about 300 students on our lists of students that we were trying to support in some way and I would say maybe five were able to get hold of that recording in the first eight to ten months of the scandal.”

Patrick Lewis, a practitioner of immigration law at Garden Court Chambers who has represented at least a dozen TOEIC students, said:

“It is extraordinary that for over two years the actual recordings weren't even disclosed to the individuals so an accusation had been made with no evidence whatsoever to substantiate the allegation.”

He continued later:

“There would have been people who were subject to dawn raids, imprisoned, and later removed from the country who will have never had that evidence provided to them. You just can't imagine that happening in the UK... You can't have any remedy if you don't have that evidence disclosed.”

Both **Patrick Lewis** and **Salima Budhani**, a lawyer at Bindmans who has been involved in 10 to 15 TOEIC cases, expressed concern that many of the students who have now received their voice files are discovering that it is in fact someone else's voice on the recording. **Professor Peter French**, forensic speech and acoustics expert who produced a report on the TOEIC matter for the Home Office in 2016, echoed this point, stating that in the 10 court cases in which he has provided voice matching evidence, at least eight of the recordings did not match the voice of the student claiming to have sat the test. Anecdotal evidence passed to **French** by the Home Office suggests this mismatch is occurring in the majority of cases.

Lewis and **Budhani** argue that this is further proof of the lack of “continuity” and the error-ridden nature of the ETS evidence (detailed in **1.1** and **1.2**), but are concerned that judges unfamiliar with the complexities of the TOEIC issue may wrongly take the mismatched recording as proof of a student's guilt. According to **Lewis**:

“Now we can obtain voice recordings, almost invariably it won't be the individual's voice recording because of the inability for ETS to link the recording to that individual. It's of no real evidential worth. It puts the appellant in a detrimental position in trying to persuade the judge of their innocence.”

He voiced concern about the consequences of this, especially for students without legal representation:

“Without the knowledge of the issues arising related to this it is difficult to see how individuals going into court can have a fair hearing.”

Budhani also raised the point previously made elsewhere, including in the National Audit Office report, that the audio files “don’t come with metadata and are useless in terms of evidential value”. Without metadata on those files – such as a time and date stamp – it is impossible to confirm whether the recording was made at the time and place that the student linked to that recording was sitting the test. In other words, it’s impossible to confirm whether the student whose name is on the recording had anything to do with it at all.

Professor Peter Sommer echoed this point, stressing that metadata is a “very natural thing to look for” when assessing the reliability of digital evidence, but in this case it didn’t exist. And the data that *did* exist on the files was useless, Sommer explained:

“The only dates you had were the dates when they had last been copied, which was many years adrift of the dates we were concerned with.”

In his search for the original recordings with the original metadata, **Sommer** had heard that ETS had outsourced its computing services to the Korean firm YBM, adding a further layer of confusion as to the existence or location of the original files.

Several experts also raised concerns that students receiving voice files were only being given recordings of six answers, instead of the full nine that constituted the TOEIC speaking test. Student **Sheikh Shariful Amin** told MPs that he had only received six clips and that “this is not the full recording”. Lawyer **Salima Budhani** confirmed that students represented by Bindmans had only received “six short clips taken from a longer recording”, raising questions about the remaining three clips and about the existence of the full test recording.

1.4 ‘No checking systems’ at ETS

Several experts noted that fraudulent activity or incompetence at ETS testing centres could and should have been uncovered earlier, if ETS had carried out more checks. **Professor Peter Sommer** made the point that, while the written rules for implementing the English tests were robust, ETS simply trusted the testing centres to implement them correctly:

“It assumed the UK based test centres were going to follow them to the letter and were going to not be corrupt – and we know that they were corrupt.”

He added:

“There didn’t seem to be a mechanism by which ETS could reliably test for compliance.”

Speaking from her experience dealing with ETS and ETS Global BV in 2014, **Joy Elliott-Bowman** said:

“The central body has absolutely no idea what is happening in any of their franchises. They have no rigour to their processes, they have no administrative processes, they have no checking system to make sure that what they promise – to the UK government and to individuals – is happening. They will say, this is the way our test runs, and they do absolutely no checks... They’re just a shambles.”

She added later:

“This was not widespread fraud, but widespread administrative error.”

1.5 ETS unwilling to address the problem

Several experts criticised ETS for their lack of transparency. Asked about her experience dealing with ETS, lawyer **Salima Budhani** said:

“They instructed commercial lawyers who are defending their clients very vigorously. ETS are not willing to give out any information unless they are instructed to by judges... ETS did in some correspondence refuse to provide information.”

The NUS also found ETS to be extremely reluctant to engage. Describing the experience of herself and her colleagues as they tried to contact ETS in 2014, **Joy Elliott-Bowman** said that they were never able to find a consistent contact person and that they often had to switch phones as “they stopped answering NUS’s calls from our number”:

“It was a real challenge and in the end the consistent conversations were through lawyers.”

She also criticised ETS for attempting “to fix problems from the US, without actually coming here”:

“From what we could tell, they never set foot on UK soil, the American executives, in order to address this. They’re just a shambles.”

Part Two: Actions taken by the Home Office

2.1 Failure to scrutinise ETS

Many of the experts agreed that the Home Office was partly responsible for ETS' failure to run fraud-free English tests in the UK. **Joy Elliott-Bowman** said that she had asked the Home Office about the checks they had done on the testing centres:

*"We were told – they've been done, we do spot checks, we do mystery shopping, it happens, but we were never given any evidence that that was the case, or any reports from those."*³

A number of the experts were also deeply critical of the visit to the ETS offices in New Jersey by five Home Office representatives. Lawyer **Michael Biggs** had two key concerns:

*"The Home Office sent out a small delegation of individuals none of whom had any expertise or experience in voice recognition processes or whatever... The officials were sent out for just one or two days to ETS. It is hard to see how there was any meaningful investigation into the reliability of ETS processes at that stage."*⁴

Elliott-Bowman spoke further on the latter point, recalling conversations in the SWG regarding the delegation.

"They made very clear in the group that Peter [Millington] and Rebecca [Collings] were not there to investigate ETS – they were to look at the investigation that ETS had done of themselves."

Asked if it was a tick box exercise, she said, "There were a lot of tick boxes."

Professor Peter French was also critical of the Home Office's decision not to include any speech or computer scientists in the delegation:

³ In evidence provided by the Home Office to the Home Affairs Select Committee in March 2016, then Immigration Minister James Brokenshire [claimed](#) that 13 such spot checks had been carried out prior to 2014 (Q4), but [corrected this in evidence provided two months later](#), revealing that no checks on English language testing at ETS centres had been carried out at all prior to the Panorama broadcast, and that those 13 checks referred to in his earlier evidence had taken place after the broadcast (Qs 48 & 49).

⁴ [Evidence provided by the Home Office in August 2016](#) confirms that the visit lasted just one day and that the purpose was not to investigate ETS: "The purpose of the visit was to understand the processes operated by ETS and why ETS were satisfied that they were able to identify to the correct standard where fraud had taken place. An expert in voice recognition was not in the delegation as this was not the purpose." (Q94)

“I think the questions asked might have been rather different and perhaps rather more searching, and they might have come back with information, which would mean that perhaps we weren’t here today.”

2.2 Failure to scrutinise the evidence

All of the experts agreed that there was a worrying lack of scrutiny when it came to the evidence supplied by ETS, which suggested, somewhat implausibly, that 97% of those who sat the test between 2011 and 2014 had cheated. Lawyer **Patrick Lewis** referred to a recent example to make this point:

“In the case I was representing last Friday, the Home Office relied upon the fact that every test taken that day was invalid. It is extraordinary to say that a test centre wouldn’t have had single genuine candidate go on that day – at a centre licensed by the Home Office that was accessible through Google search...”

Lewis believes that such cases could have occurred through “mass replacement” – where every test at a particular centre on a particular day was replaced with a proxy recording, even when some students taking the test had not paid to cheat and were not aware of this replacement.

Raja Noman Hussain outlined another anomaly the Home Office seems to have ignored. He says there was a UKVI official observing the test on which he was later accused of cheating:

“The examiner told us they are from the Home Office and they came to look at the test... Still I can remember a guy was standing, coming round us to see what was happening. I can still clearly remember the guy had a name badge that said ‘Home Office’.”⁵

It is troubling both that students could later be accused of using a proxy on a test witnessed by a Home Office official, and that the Home Office has failed to investigate Hussain’s claim.

In the case of **Mohammad Mohibullah**, ETS claimed that 70 students had sat the exam in a room that could hold only 30 people, but his solicitors at Bindmans LLP, who are representing him, are unaware of the Home Office following that up. Bindmans lawyer **Salima Budhani** said:

“This is an example of important and worrying information that wasn’t acted upon and we only obtained after fighting for it.”

⁵ There is a discrepancy between Hussain’s evidence and the Home Office’s own admission (see fn.2) that they did not carry out any checks on English language testing at ETS centres prior to the Panorama broadcast. It is unclear whether the official Hussain described was conducting sponsorship compliance checks (which, according to the Home Office, did take place at ETS testing centres prior to 2014) rather than English language testing checks.

Budhani also raised the possibility of other forms of fraud occurring at the test centres, possibly involving hidden rooms or remote controlled software. She expressed her frustration at the lack of information available that could help determine whether these types of fraud took place.

In **Mohibullah's** case, there was even confusion from the very beginning as to which list he was on, and the Home Office has shown little urgency to clarify that. The first letter he received from the Home Office in December 2014 made no mention of TOEIC at all. He was later told he was on the 'invalid' list but in December 2018, he was told instead he was 'questionable' and was invited to an interview at the Home Office. But after that interview, a further application was refused and he was given an in-country appeal right, suggesting he is in fact on the 'invalid' list.

2.3 Misuse of expert advice

As has been documented, it was two years before the Home Office commissioned an expert (Professor Peter French) to look at the evidence supplied by ETS, specifically the voice recognition process.

What has not been known until now, however, is that the Home Office Scientific Secretariat convened a meeting of technical experts in August 2014 – held under conditions of confidentiality – to discuss the ETS evidence in relation to future criminal cases against fraudulent colleges and proxy sitters.⁶

Professor Peter French, who attended the meeting, explained:

“Specifically what they were interested in was the sort of evidence that voice identification produced by ETS – was that going to pass muster in UK courts, and if no what should they be doing in order to shore that up. Or to re-do the work in order to use that sort of evidence in prosecution of the proxy sitters.”

What is clear from this is that the Home Office was content to use evidence that they suspected was not robust enough to stand up in court to revoke the visas of tens of thousands of students, forcibly remove thousands from the country, and leave a permanent allegation of fraud on their immigration record.

French explained that the experts – who included biometrics officers and a member of the National Physical Laboratory – had put forward a “great big raft of very very

⁶ As recently as 10 July 2019, Home Office officials have denied that there was any contact with scientific experts before 2016. In a [Public Accounts Committee hearing](#) on that date, Mark Thomson (Director General UK Visas and Immigration) and Sir Philip Rutnam (Home Office Permanent Secretary) both said it was a mistake not to commission expert evidence earlier than 2016. Rutnam: “With fraud of this scale, clearly, we should have taken independent advice earlier than 2016, in 2014.” The question is therefore: Why is the Home Office refusing to admit that they met with experts before 2016, unless it is to disguise the fact that they knew as early as August 2014 that the reliability of the evidence was in question?

technical questions” at the meeting, which they said would need to be answered by ETS before the quality of the evidence could be reliably assessed.

French has never received any answers to those questions, nor did the Home Office contact him again until 18 months later. Instead of acting on the questions raised by the experts and conducting a thorough investigation into the reliability of the evidence, the Home Office continued to revoke visas and remove people from the UK on the basis of that evidence.

In February 2016, **French** was contacted by the Government Legal Department on behalf of the Home Office. He was asked to consider a report produced by Dr Harrison for the NUS regarding the reliability of the voice recognition process.

The report he produced, in which he estimates that the rate of “false positives” (individuals wrongly identified as having cheated) would be less than 1%, has become a cornerstone of the Government’s defence of its actions.

In response to questions from MPs, **French** qualified that conclusion, saying that the 1% figure was valid “if the results that ETS had given the Home Office were correct”.

But, as we have seen, the reliability of those “results” (the evidence provided by ETS) was questioned by every expert to give evidence, including the three technical experts, making the reliability of the voice recognition software almost irrelevant and casting significant doubt on the usefulness of that statistic so heavily relied upon by the Home Office (see 1.1 and 1.2).

According to lawyer **Patrick Lewis**:

“[The 1% figure] is totally invalid and for the Home Office to continue to rely on that when their own expert has raised concerns about the evidence is misleading.”

In his evidence, **Professor Peter French** also cautioned against a process whereby a supposedly low error rate (1% in his estimation) was the sole basis for accusing a particular person of fraud:

“Even if you establish a 1% error rate, it doesn’t establish that any particular individual acted fraudulently, because the person who is actually involved could be the 1 in 100 who the system made an error with.”

Yet, time and again in court, the Home Office has used French’s estimated error rate alongside the argument that widespread fraud occurred, to argue that a particular person cheated.

2.4 Home Office hid the scale of the situation

The first contact between the Home Office and the National Union of Students (NUS) regarding the TOEIC issue took place a few days before the Panorama broadcast, according to **Joy Elliott-Bowman**. She recalled learning that a couple of colleges were implicated and that the Home Office would be taking action against “the criminals involved”, which she understood to be the agents taking advantage of some international students, and which she therefore welcomed.

It wasn't until four months later – just a few hours before then Immigration Minister James Brokenshire made a statement in the House of Commons and on the same day that institutions across the country were receiving lists of students who had allegedly cheated on TOEIC – that she and her colleagues were told by the Home Office that “a sizable amount of institutions” were implicated.

This was two months after ETS had sent the first batch of evidence to the Home Office – which would have made them aware of the supposed scale – and three weeks after the Home Office visit to ETS. **Elliott-Bowman**:

“So in between those time periods, we heard nothing of the scale. All we knew was a criminal investigation was ongoing, they were taking actions against the criminals, nothing more... And actually, all the way through, the true scale was being hidden from the group that was supposed to be helping the students.”

2.5 ‘Questionable’ students unjustly targeted

What had also been hidden was a significant reclassification of the information sent to the Home Office by ETS. Student **Sheikh Shariful Amin** pointed out in his evidence that in previous cases where ETS was uncertain of the validity of a test result, they would simply ask a student to sit another exam. This was also what they recommended for the 22,694 students for whom the voice recognition process did not produce a definitive result. That was revealed in James Brokenshire's [written evidence](#) to the Home Affairs Select Committee on 17 August 2016, where he describes the ETS evidence:

“The data was split across several tabs generally labelled ‘cancelled’, ‘would offer retest’ and ‘released’.”

The Home Office then decided to reclassify ‘cancelled’ as ‘invalid’ and ‘would offer retest’ as ‘questionable’. The Department then went a step further, according to **Elliott-Bowman**, issuing lists to the 104 affected institutions that did *not* distinguish between ‘invalid’ and ‘questionable’ students:

“They were just handed a single list of students, there was no distinction. It wasn't until we met with the Home Office and we looked at what they were doing. We said, ‘If you've got two lists, present two lists’; we told the

institutions, the institutions then pushed back. But if at that point, they'd already taken action against the student and the student had been removed from the country, there wasn't much that could be done."

The Home Office has insisted repeatedly that no action was taken against anyone on the 'questionable' list without having the chance to sit a new test and attend an interview at the Home Office.⁷ That is put in serious doubt by **Elliott-Bowman**, who said that most institutions simply withdrew all of the students on the list, leaving them without a sponsor and therefore vulnerable to removal by the Home Office:

"Once an institution withdrew a student, the Home Office said, 'you no longer have the right to stay here. It's no longer even a question of whether you had a questionable or were accused – TOEIC becomes not a factor. You no longer have the right to stay because your institution says they have withdrawn you as a student. The Home Office then takes action on that basis."

That action often included detaining and deporting students, including those whose tests had been categorised as 'questionable'. **Elliott-Bowman** again:

"I know absolutely there are students on the questionable list whose institutions or the Home Office took action against prior to the delineation... I spent the majority of the summer of 2014, at the weekends, trying to help students out of detention centres. We knew that was happening at speed."

Instead of being offered a retest, as per ETS' original classification, students who were accused of having *possibly* cheated – sometimes simply by virtue of sitting their test at a particular test centre – were instead being forcibly removed from the country.

Elliott-Bowman and her NUS colleagues discovered this during one of the Sponsorship Working Group (SWG) meetings, the first of which took place on 7 July 2014, two weeks after universities had started withdrawing students and more than three months after the Home Office had begun revoking visas and removing students from the country. They immediately – and repeatedly – insisted that the 'questionable' students should be offered the chance to take a new test:

"We pressured and pressured and the Home Office put their foot down and said unequivocally, absolutely not – we will not allow the questionable students the chance to prove their innocence."

⁷ For example, see Home Office evidence on [6 May 2016](#) (Qs 44, 59) and [17 August 2016](#) (Qs 96, 101, 104, 105, 114). Most recently, at a [Public Accounts Committee hearing](#) on 10 July 2019, Director General UK Visas and Immigration Mark Thomson said twice that "questionable" students had the chance to sit a new test. He said: "There are two distinct groups – there are the invalid... and the questionable cases as well, where no action was taken on these individuals, and I think it's a really important point to make. As I said earlier on, they had the opportunity to resit the test. We made no representations to these individuals and no removal action taken on them or closure of their leave to remain."

2.6 Failure of Home Office student support group

The hostile approach towards the ‘questionable’ students was not the only significant problem with the SWG. The group, which included representatives from the higher education sector, government bodies and Departments including the Home Office and the Department for Business, Innovation and Skills (BIS; disbanded in 2016), was set up only to help the students who were not on any TOEIC list but had lost their sponsor as they had been studying at an institution that had lost its licence over the issue. The NUS representatives sought to change this, but the Home Office refused, according to **Elliott-Bowman**.

The chairing of the SWG was another major problem, she explained, as the group was not chaired independently but by the Home Office, which also sat on the group as a member. Even more significantly, the Chair was Peter Millington, one of the officials who was part of the delegation to ETS in June 2014. To **Elliott-Bowman**, that was a clear conflict:

“The man who went over to validate the fraud was then chair of the body that was supposed to help students.”

Concerned about the way the group was being run and how restricted they were in supporting the students, some members wrote a letter to the Home Secretary and the Immigration Minister, but that letter was never sent:

“We asked the Chair to sign and send it, as the Chair of the group, and he refused on the basis that he couldn’t write such a letter to his boss. So we in the group could do nothing.”

Ultimately, as a result of the SWG, those students who had lost their sponsor received a letter offering help – but these were only sent in November 2014, five months after their institutions had closed or they were told they could no longer study there. **Elliott-Bowman** was frustrated that the response to the London Metropolitan University scandal of 2012 provided a “blueprint” for a response to the TOEIC issue, but that this was ignored.⁸

Speaking on the overall legacy of the SWG, **Elliott-Bowman** said:

“It failed, ultimately because the Home Office was in charge... There was no money forthcoming from BIS, whatsoever, to help these students, and the whole thing just sort of fell apart. And when I left NUS in July 2015, no more than 300 students went through that process out of 68,000 that were impacted. It was a waste of time and money.”

⁸ London Metropolitan University lost its right to recruit international students from outside the EU in 2012. According to Elliott-Bowman, those international students who therefore lost their sponsor were supported by a government working group and given access to an online portal allowing them to easily apply to continue their studies elsewhere, and to a pot of money with a total value of £800,000 to help with new visa applications and other costs.

2.7 Active attempts to prevent students clearing their names

Several experts suggested that the Home Office has not only refused to scrutinise the evidence against the students, but that the Department has also actively obstructed them from clearing their names.

According to lawyer **Michael Biggs**:

“What is remarkable is that the Home Office pioneered a process to make it as difficult possible for migrants to challenge a decision if they were deemed a TOEIC cheat, particularly removal decisions.”

He added later, referring specifically to the “deport first, appeal later” policy that meant individuals could be removed without being presented with any evidence against them:

“[The SSHD’s actions] left migrants accused of fraud with no effective remedy.”

Those who have been able to win their cases, such as **Mohammad Mohibullah**, who won his Judicial Review in December 2016, have still been denied any real remedy. He was given just 41 days to find a new sponsor, which proved impossible due to both the short timeframe and the reluctance of universities to accept a student with his complex immigration history and an allegation of deception on his immigration record, which would likely be seen by these institutions as a threat to their Home Office-issued licence.

Mohibullah has applied to more than 20 institutions with no success and his lawyer has advised him to stop applying:

“Last year my solicitor advised me not to go for another application, because the Home Office haven’t cleared anything about me.”

His lawyer is now advising him to go back to court and lodge a human rights claim in another bid to clear his name. The Home Office has suggested the same thing, in an apparent admission that a Judicial Review ruling is worth very little.

Mohibullah is worried for all those who have not even won a Judicial Review yet:

“What I went through in last two to three years, most of my fellow students they are about to go through. I’m concerned for them as well. When you get a decision, it’s not enough to get into university. There is not a remedy by the Home Office.”

2.8 A hostile and uncooperative Home Office

Several of the experts expressed real frustration at the approach taken by the Home Office on this issue. Lawyer **Salima Budhani** said of the Home Office:

“They are coming very much from the position of immigration enforcement and hoping it will go away. They are not coming at it from the angle of a public authority exercising its functions in a fair reasonable way.”

She also criticised the Home Office for the Department’s failure to take “decisive action when it all came out in 2014”, including the failure to seize computers at key test centres.

Lawyer **Patrick Lewis** agreed with Budhani’s assessment of the Home Office’s actions, describing their approach as “the real tragedy” and attributing this in part to “the hostile environment... as if it is a ‘them and us’ situation”:

“It was unnecessary for the Home Office to take such an adversarial position as with regards to this. Surely it would have been in everybody’s interest to be able to identify the truth and to do that it would have been in everybody’s interest to get as much of the information available and force ETS to disclose that evidence? But that hasn’t happened. The Home Office has very much been seen to be on ETS’s side.”

He continued later:

“Every single one of these individuals caught up in this scandal were of good character. They wouldn’t be here otherwise... So why has there been a reluctance on the Home Office’s behalf to get to the root of this?”

Professor Peter Sommer told MPs how a Home Office QC attempted to get his evidence – which was critical of ETS and the Home Office – excluded from a tribunal, describing the manner in which the Home Office dealt with TOEIC challenges as “disturbing”.

Joy Elliott-Bowman argued that the Home Office should never have taken action against students if it did not have the evidence to pursue a conviction of fraud:

“There should be absolutely no reason why a migrant in this country should be less of a person under the law than a UK citizen.”

Nazek Ramadan also expressed frustration that the Home Office seems unwilling to engage with those seeking to resolve the situation. She explained that Migrant Voice has written at least three times to the Home Secretary to request a meeting, but has not received a response. The Immigration Minister meanwhile continues to repeat “exactly the same statements”, Ramadan said, continuing:

“This is someone who doesn’t want to listen and doesn’t want to know about it. They have one statement – they’re just sticking to it and keep repeating it at any cost.”

Part Three: The legal landscape

3.1 Expensive, labyrinthine court battles

The three lawyers who gave evidence have been involved in well over 100 TOEIC cases in total and have won the vast majority.

Patrick Lewis described the TOEIC cases as “exceptional” in that there was no real remedy for those students who were innocent:

“Our experiences as lawyers is that there have always been remedies against adverse decisions made by the Secretary of State. These were a group of individuals who weren’t given appeal rights initially. Those that have been given appeal rights are quite few, up until very recently.”

As Lewis’ final comment suggests, the situation has improved in terms of in-country appeal rights, which are now being granted more often in TOEIC cases. But all three expressed serious concern about the continuing lack of evidence against specific individuals, and the poor quality of the evidence that does exist (detailed in **Part One**).

For those fighting a TOEIC case without legal representation – which **Patrick Lewis** believes to be a “significant proportion as many students will have exhausted the funding and goodwill of family members” – the situation is even more difficult. While legal aid is available in some “exceptional cases”, as **Salima Budhani** noted, the application process is time-consuming and most solicitors are unlikely to attempt it. This is leading to many students, unable to afford legal counsel, representing themselves.

In these cases, **Michael Biggs** explained:

“Migrants are forced to give evidence in their own defence and that means they are at the mercy of a judicial evaluation about their credibility. If the Judge finds they are not credible witnesses, they will likely deem them a TOEIC cheat. If, however, the judge thinks they are credible, then they are likely to succeed in their appeal. And that is a worrying situation for anyone to find themselves in.”

Part Four: The higher education sector

4.1 Students quickly withdrawn from courses

During the summer of 2014, **Joy Elliott-Bowman** and her colleagues at NUS attempted to make contact with all 104 institutions that had received lists of students who were accused by the Home Office of cheating. Many of those 104 had had their licences revoked by the Home Office and 86 shut down very quickly due to the financial burden of the loss of both students and their licence. Most of the rest also immediately withdrew all of the students on the Home Office list. According to **Elliott-Bowman**:

“Their biggest fear was: if we don’t do what the Home Office says, we will lose our licence... [The] larger public institutions that had more students than just international students were very much interested in protecting that licence, unfortunately above all else.”

Although universities were not officially instructed to remove the students on the list, this was clearly the expectation, according to **Elliott-Bowman**.

“There’s actually lots of evidence in email chains that the Home Office said, ‘we expect you to withdraw these students’.”

And a lack of detailed explanation in the original communication from the Home Office led many institutions to err on the side of caution, **Elliott-Bowman** said:

“The lack of clarity in what the students had done made it very difficult for the institutions to go: ‘what should I then be doing in this case? I don’t know if the student in front of me has cheated, is fraudulent, has committed a criminal activity. I’m given this list, I don’t know what the evidence against them is.’ So the institutions sort of erred and said, we’re going to take the Home Office’s word for it.”⁹

TOEIC student **Mohammad Mohibullah** was told by his university that he had been dropped from the course on the day of his final exam in summer 2014. When he asked what would happen to him, they said they didn’t have any more information. It

⁹ In [oral testimony given to the Home Affairs Select Committee in July 2016](#), Hermanus Gardner, who ran Blake Hall College, one of the institutions that lost dozens of students as a result of the TOEIC issue, made very similar points. Gardner explained how he was provided by the Home Office with a list of students “who were so-called frauds”. Asked if the Home Office told them to withdraw the students or face losing their licence, Gardner said, “It was never said, but it was implied all the time.” He said that the Home Office later commended them for withdrawing the students: “They were at pains to say to us that we needed to understand that they never instructed us to do this. They still commended the fact that we actually did it.” He also commented on the lack of evidence against students on the list: “There was absolutely no serious evidence ever presented to us on any one of our students having obtained their qualifications fraudulently.”

was six months later – in December 2014 – that he got the first letter from the Home Office.

Sheikh Shariful Amin explained that his former institution has refused to offer him any support since 2014, despite multiple attempts, and despite the fact that he was no longer a student there at the time he was accused of deception.

“I tried several times to go back to my university, the University of East London. I tried to speak to the student council, the department... Everyone said – obviously this is unrecorded, not in writing – ‘we cannot help you with anything. It is very dangerous for our licence. We would be very happy if you do not ask any more questions. We don’t want to speak to you.’”

A small number of institutions did challenge the Home Office, **Elliot-Bowman** recalled, including an institution in the Midlands that forced the Home Office to identify which of the students were on the questionable list. The institution then refused to remove those students, insisting instead on just retesting their English.

Glyndwr University – one of three universities on the list of 104 institutions – were also given permission to retest 150 students on the questionable list, according to **Elliott-Bowman**.

“But again, that was only after sustained negotiations and conversations with the Home Office... Other institutions just said: whatever you want, we’ll do what you need us to do.”

4.2 Refusals of students who have won their cases

Migrant Voice Director **Nazek Ramadan** explained how some students who have won their appeals are being refused by universities, who see these students as a “risk” to their licence due to their immigration history, despite the courts ruling in their favour.

Student **Mohammad Mohibullah** has made more than 20 applications to universities since winning his Judicial Review in 2016, most of which have been immediately rejected. He was told by universities:

“This will destroy my reputation as a university by taking you as a student, because you have such a complex history.”

At least one university has told **Mohibullah** that winning his Judicial Review is not enough for them to trust that the Home Office will issue him with a new visa. When he approached Greenwich University to apply for a Masters, they told him that he needs “a clear judgement” on his case.

It is not just the original allegation that threatens these students’ return to education. In August 2017, **Mohibullah** found a university that accepted him but the offer was

then withdrawn as he was considered to have been studying in the UK for more than five years (and having therefore reached the limit for an international student). The fact that he had not been studying between 2014 and 2017 and indeed prevented from doing so was simply disregarded.

The students' years-long absence from education – again, despite this being against their will – counts against them too. That's a concern for **Sheikh Shariful Amin**:

“I have a plan to go for a Masters but there is a very big challenge for me, because no university will take me on a Masters course because of my very vast amount of gap.”

Joy Elliott-Bowman insists that universities have a “duty of care” to support these students as they (hopefully) return to education:

“They took action without the proper evidence and should look now at what they need to do to make that right.”

Part Five: The impact

All three students who gave evidence spoke in excellent English and confirmed that they had sat TOEIC themselves and with no help from anyone else. All said that they had sat and passed the much harder International English Language Testing System (IELTS) exam at least once prior to sitting TOEIC.

Two of the students said that they had wanted to sit IELTS again, but found there were no available dates to sit the exam in the relevant period so booked TOEIC instead. Since this exam was also approved by UKVI, the students believed there was no reason to be concerned.

5.1 Impact on students' careers and financial situation

Sheikh Shariful Amin had finished studying and started a business, employing two British workers, when he was accused of cheating and had his visa revoked. He said:

“All my investment and capital has been destroyed by one moment... This simple English test has taken everything from me.”

Amin has debts of £30,000 from legal fees and unpaid loans. He said he struggles to keep a roof over his head. **Raja Noman Hussain** said he had spent more than £60,000 on his education, loans and legal fees.

Students who have gone home are no better off. At one point, **Amin** applied for a job in Bangladesh but was rejected after the employer learned of the allegation against him. He explained that he knows many others who went home and are struggling to find work.

Mohammad Mohibullah explained he had planned to finish his Bachelors and Masters degrees by 2015 and return home.

“In Bangladesh, if you are the wrong side of thirty, it is hard to get a good job. So right now, I’m into my thirties, and it will be very hard to get a good job.”

5.2 Impact on students’ mental health and relationships

Asked about the impact of the allegation on his life, **Raja Noman Hussain** said:

“For me, TOEIC is like a cancer that didn’t only damage me, but also my whole family. In the seven and a half years in Britain I have had the most terrible experience of my life.”

Hussain explained how his brother postponed his wedding for four years in the hope he could be there, that his father has recently had a stroke and that his mother is also unwell. He is desperate to see them, but they insist he must clear his name first:

“My Dad said: ‘We sent you to your favourite country to study, to get the best education. You cannot come back to the same place and tell me you have a fraud allegation. If you think you’re innocent, the UK has the best justice system. Go and prove yourself in the courts.’”

Sheikh Shariful Amin’s family also have a great belief in the UK:

“I came to this country because of my father. He told me, ‘this is the country of democracy.’”

He has been unable to explain the situation to his father:

“This English test, it has taken us away from our family... We cannot tell them what is happening. If we tell them, they would not understand. They have a vast amount of belief in this country.”

Nazek Ramadan explained that most of the students are on medication for mental health problems as a result of their situation, and some are on very strong medication to stop them from taking their own lives. She continued:

“They’re young people who came here for the best experience in the world, for the best education in the world... only to end up facing the worst nightmare, unimaginable nightmare.”

Part Six: What should happen next?

6.1 Sensible solutions

A number of the experts put forward suggestions for how this situation can be most easily resolved. **Professor Peter Sommer** referred twice during the hearing to the possibility of re-testing all of the TOEIC students, which he described as “the common sense simple political solution”.

Joy Elliott-Bowman made the same suggestion, urging the Home Office to first absolve all students on the list and give them the opportunity to sit a new Secure English Language Test. Aware of the problems facing students who have won their cases but are still being rejected by universities, she continued:

“The second thing they must do is to make that very public and issue a public apology to those students. It has to be public, because otherwise the universities and the colleges that might take the student won’t because the risk is too great to their immigration compliance.”

She continued later:

“It [must be made] clear across the board that a TOEIC test is not what’s seen as now, which is a mark of fraudulent activity, but actually an unfortunate circumstance for choosing a company that the Home Office approved that was completely incompetent at its duty.”

Elliott-Bowman also recommended that the Government’s response to the London Metropolitan University scandal in 2012 (see **2.5**) be used as a template for the TOEIC students:

“They bent over backwards for that group of students – they should do the same for these now.”

Actions would include establishing an online portal allowing students to search and apply for courses similar to those on which they were previously enrolled, and making a pot of money available to help with costs such as visa applications.

The HE sector also has “a duty of care”, **Elliott-Bowman** said, recommending that universities offer scholarships to students who were unfairly denied the right to finish their courses in 2014.

In relation to the future immigration status of students who are cleared of cheating, lawyer **Salima Budhani** cautioned against recommending that students be somehow returned their pre-TOEIC visa status, which would burden them with certain conditions they may not be able to fulfil. She argued that there needs to be a specific policy in place for this group of people, perhaps some kind of “TOEIC leave”.

Addressing the question of compensation, lawyer **Michael Biggs** noted that English public law doesn't recognise a general remedy for damages for public law wrongs. With that in mind, he argued that "an ad hoc compensation scheme can be established to try and repair the historic damage an allegation of TOEIC cheating has caused" to students. He continued:

"The reality in many cases is that the migrant's immigration history is irredeemably undermined and the only way to redress this is through compensation."

Others noted that, for many students, clearing their names is the only remedy that matters. Lawyer **Patrick Lewis** said:

"From my experience, students are most concerned about countering the serious allegations against them and proving themselves to be of good character."

Migrant Voice Director **Nazek Ramadan** agreed and said that removing the allegations against the students is the primary goal for Migrant Voice:

"Right now our priority as a charity is to get them justice... For us, more than anything else, we want them to clear their name of this allegation and get on with their lives."

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