



Home Office

Seema Kennedy OBE MP
Parliamentary Under-Secretary of State

Stephen Timms MP
House of Commons
London
SW1A 0AA

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

20 SEP 2019

Dear Stephen,

The Prime Minister has asked me to write to you in response to concerns you raised around the Home Office handling of accusations of fraud in English language tests, following his oral statement of 25 July. I apologise for the time it has taken to respond.

On 24 July, the then Home Secretary laid a Written Ministerial Statement which provided details of the Department's response to many of the concerns that you raised. The action the Department is taking includes reviewing guidance to ensure that, in these cases, officials are properly balancing a belief that deception was committed some years ago against other factors that would normally lead to leave being granted, especially where children are involved.

It also includes updating operational guidance to ensure no further action is taken in questionable cases (without further direct evidence of deception) or where there is no evidence an ETS certificate was used in an immigration application.

The previous Home Secretary also confirmed that the Home Office was looking at whether there is a need to create a mechanism which would allow those who feel they have been wronged to be able to ask for their case to be reviewed.

The new Home Secretary has considered advice on this matter and has come to the view that setting up a bespoke scheme would not be viable given both the passage of time and current legal frameworks relating to appeal rights, judicial and administrative reviews.

Where a case is raised by a Member of Parliament it will be reviewed to ensure that the Department remains satisfied that the handling of the case is in line with agreed policy. I recognise there are a number of letters from MPs, including yourself, where replies are outstanding because of the wider review the previous Home Secretary commissioned. These will now be responded to as a matter of priority.

It remains the case that for many people, given the passage of time, the most appropriate course will be to make an application based on their Article 8 rights to family and private life. This is the approach that many individuals have already taken.

As set out above, the guidance is being changed to ensure that such an application will be considered in a holistic manner and not refused simply based on the alleged deception. Even where a human rights claim is refused it will generate an in country right of appeal to the First-tier Immigration and Asylum Tribunal, unless certified as clearly unfounded (a power which is unlikely to be applicable for most of these cases).

Officials will also not raise any objection to the Tribunal looking, as part of this appeal, at whether deception was practised. This means that the issues in question, and the particular facts of an individual's case, can be reviewed by an independent member of the judiciary.

I would be happy to meet with you to discuss this issue in greater detail. My office will shortly be in contact to arrange a suitable time.

*yours,
Seema*

**Seema Kennedy OBE MP
Parliamentary Under-Secretary of State**