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**I want my  
future back.**

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The international students  
treated as guilty until  
proven innocent.

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A report by  
Migrant Voice

# “I want my future back.”

The international students found guilty until proven innocent.

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## **About Migrant Voice**

We are a migrant-led organisation working with migrants from all around the world with all kinds of status, including refugees and asylum seekers. We develop the media skills and confidence of migrants with the aim of strengthening their voices in the media and civil society in order to counter xenophobia and build support for our rights.

Established in 2010, Migrant Voice provides a platform for its members from migrant communities, especially those whose voices are not usually heard, and encourages them to express their views on issues affecting them as migrants.

We aim to address negative stereotypes and limited understanding of migrants and migration, and facilitate a more constructive and positive public debate, and believe that empowering those most affected by an issue to speak about it is a key part of this process.

Migrant Voice has regional hubs in London, the West Midlands and Glasgow. Membership is open to all migrants and non-migrants wanting to engage in creating positive change. To get involved in the UK Migrant Voices for Change network, or to find out more about our work please email [info@migrantvoice.org](mailto:info@migrantvoice.org) or visit our website at [www.migrantvoice.org](http://www.migrantvoice.org)

## **Acknowledgements**

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Many have volunteered their expertise and time towards this report and we thank them all. We thank Anna Marsden in particular for conducting the interviews, analysis and her invaluable role in writing the report.

We also wish to thank Garden Court Chambers for their support.

## Key definitions

**Ahsan:** The case of *Ahsan v The Secretary of State for the Home Department* ([2017] EWCA Civ 2009)

**ETS:** A US non-profit organisation contracted by the Home Office to provide secure English language tests on behalf of the Home Office. ETS offers several products and services including English language tests such as TOEFL® and TOEIC® (defined below).

**In-Country Right of Appeal:** An appeal registered in the UK where the individual can attend and give evidence in person.

**Judicial Review:** An aggrieved party/ individual may apply to the courts to exercise its powers for review of the decisions of governmental departments or bodies acting in governmental capacities. The court's powers of review are limited to very few situations and can only be applied where the applicant has exhausted other statutory rights. A judicial review considers the lawfulness and/ or reasonableness of a decision taken by the government department or official. It does not re-assess the decision generally.

**Out-of-Country Appeal Right:** An appeal that can only be made when the person appealing has been removed from the UK.

**Section 10 Notice:** A notice by the UK Home Office with instructions for the removal of a person from the UK and as issued under section 10 of the Immigration and Asylum Act 1999, which includes removals of persons who have used deception in seeking to obtain permission to stay in the UK.

**Students:** In this report we will be referring to all individuals affected by the allegation of cheating on the TOEIC English language test as '*students*' or '*international students*'. Not all were students – some took the test to apply for an entrepreneurial visa, for example, or other visas after graduating from colleges and universities.

**TOEIC:** Stands for the Test of English for International Communication. It is a form of English language test consisting of a written and spoken sections. It is provided by the ETS (above). ETS states that "The TOEIC® Speaking and Writing tests provide an accurate assessment of an individual's ability to communicate in spoken and written English in the workplace."

## Executive summary

This research was sparked by a group of university students who contacted Migrant Voice and asked us for help in their ongoing campaign for justice. We learned that some years ago, the Home Office had accused these students of cheating in an English-language test. With no proper right to challenge the decision, they were summarily told that their studies had been terminated and that they had no right to stay in the United Kingdom.

Overnight, lives were turned upside down. Some of the students were taken straight to immigration detention, some were deported, and some returned to their home countries to appeal against the allegation. Others remained and worked desperately to clear their names, knowing that going home with such a slur hanging over them would have destroyed their reputations and barred them from jobs – and in some cases, destroyed their familial relationships.

Those who took up the challenge had come to study a wide range of subjects, but rapidly found themselves “students of law” – and in the context of a system that regarded them guilty until proven innocent, that refused to engage with their evidence, and that failed to make key evidence available to them, it was a steep learning curve. Almost all their lives were thrown into turmoil. Stress, frustration and anxiety caused health problems, tens of thousands of pounds were spent on legal and living costs, families were divided, and marriages were derailed.

Their desperate plight, the urgency of their situation and constraints on our own resources did not allow Migrant Voice to conduct extensive research. Our conclusions are based on a collection of significant case studies that have highlighted the disruptive impact of this policy on every aspect of the lives of these international students, which we know from a history of previous legal challenges and reportage are representative of a far larger group. We have attempted to highlight the impact Home Office decision-making has had on these students and point to the absence of and inconsistencies in the evidence presented by the Home Office.

Our respondents arrived in the UK between 2004 and 2011. Most sat the Test of English for International Communication (TOEIC) as a prerequisite to taking up their places (one of our case studies had never sat this test though he was accused of cheating during it). In 2014 and 2015 alone the Home Office revoked visas of tens of thousands of international students and often detained and removed them, based on evidence which was later described by a court as suffering from ‘multiple frailties and shortcomings.’

Since then, the students affected have suffered from a range of external difficulties far beyond the immediate disruption to their studies and employment. The knock-on effect has derailed careers and long-term aspirations. It has pushed people out of work and into poverty and debt. It has forced people out of accommodation. It has had severe impacts on physical and mental health, and family and community relationships.

This report outlines some of these cases and aims to offer solutions so that policymakers may look again, seriously, at this issue and work to redress the injustice that thousands of international students have suffered.

## **Background**

Some UK visa applicants are required to pass a test of proficiency in written and spoken English. One of the approved tests is the "Test of English for International Communication" (commonly referred to as "TOEIC"). It is provided by a US organisation called Educational Testing Service ("ETS"). ETS's TOEIC tests have been available at a large number of test centres in Britain. The spoken English part of the test involves the candidate being recorded reading a text, with the recording then being sent to an ETS assessor for marking.

In February 2014, BBC's *Panorama* programme reported that some cheating on tests had occurred at a number of ETS test centres. In particular, though not in all cases, the fraud entailed the use of proxies to take the spoken English part of the test. In response to this, the Home Office instructed ETS to use voice recognition software to check test recordings from centres in question.

On the basis of ETS' information, which has since been called into question by experts, the Home Office accused tens of thousands of people of cheating in their English language tests and took various actions including but not limited to the following:

- Refused or cancelled over 40,000 people's visas in 2014 and 2015 alone. The National Union of Students estimates that over 56,000 individuals were affected.
- Issued some of those affected with instructions to leave the UK immediately under section 10 of the Immigration and Asylum Act 1999, which meant one could only appeal the Home Office's decision from outside the UK (after leaving the country).
- Informed universities that students' visas had been cancelled resulting in students being withdrawn from universities.
- Detained students at border checks or in their homes, some of whom were removed from the UK following these detentions.
- Black-listed other individuals who only came to learn of the Home Office allegations following refusal of subsequent visa applications in some cases several years after they had taken the English language test.
- Denied students real and effective access to the courts and a fair hearing or opportunity to defend themselves.

### ***Right to fair trial and access to the courts***

Two established principles of English (Common) law are that an accuser bears the burden of proving the charges they make against someone and that the accused person must be given fair opportunity to consider and respond to the charges should they wish to do so.

The Home Office has taken several actions to frustrate students' efforts to challenge its decisions including:

- Refusing to provide students in a timely manner with evidence critical to their defence.
- Relying on “evidence that has been highly criticised by the Courts. The court has established that the evidence relied on by the Home Office was only “just” sufficient to make allegations. The Court in addition to criticising the evidence upon which the Home Office relied referred to the procedures to uphold these decision as being ‘stumbling’. Effectively, this means tens of thousands of people were removed from or forced to leave the UK or had their immigration status negatively affected based on unsatisfactory evidence and without the opportunity to respond.
- Preventing students from appealing or proceeding with other judicial actions either directly through its decisions or by supporting legislation to take away important appeal rights. For example, students accused of fraud routinely had their appeal rights removed simply by a Home Office assertion that their claim was ‘clearly unfounded’. Changes to immigration rules and laws have made it more difficult for migrants to challenge Home Office decisions. The Immigration Act 2014 ensures most migrants have no appeal rights either in- or out-of country.

Given that the 2014 Immigration Act denies students an automatic in-country right of appeal, the students’ remedies for legal relief have been severely limited. Their options have mainly been to apply for an out-of-country appeal (option open to the majority), in-country appeal (in very limited cases) or seek judicial review.

The students have been forced to seek political redress because most of them have been excluded from effective legal remedy. For others the legal remedies took too long or came at significant financial and emotional costs or may not have put them in positions similar to what they enjoyed before the Home Office’s allegations. No action has been taken to address the many individuals who were removed or refused entry when they were in fact entirely innocent.

Even if the first group was offered in-country appeals, this would be a remedy that is too little and too late as well as being emotionally and financially costly for some of the students. In the present circumstances, justice delayed is justice denied.

As Mr Justice Green commented in respect to allegations of dishonesty by the Home Office as having had “catastrophic consequences” for many of those accused. The absence of proper independent review has led to individuals of good character having their reputations and livelihoods ruined without any remedy having been made available to them.

This has been unquestionably another example of the hostile environment that has been unnecessarily created for individuals who were in the UK lawfully and making a significant contribution to the UK economy and cultural life.



## **Introduction to our research**

This research was sparked by the demand from a group of international university students and victims of the TOEIC allegations who asked Migrant Voice for help in their fight for justice.

The Home Office had accused them of cheating in an English-language test and told them their studies had been terminated and that they had no right to stay in the United Kingdom.

Some of the students were detained, some were supported, and some returned to their home countries to appeal against the allegation, some remained to clear their names because going home with such a slur hanging over them would have destroyed their reputations and barred them from jobs – and in some cases, from their families. Their task proved virtually unattainable. They were blocked at every turn, and found that a basic tenet of British justice was turned on its head: they were presumed guilty until proved innocent, and the evidence of their innocence – the analysis of the test results – was not made available to them. Almost all their lives were thrown into turmoil. Stress, frustration and anxiety caused health problems, tens of thousands of pounds were spent on legal and living costs, families were divided, marriages were derailed.

Their desperate plight, the urgency of their situation and our own lack of funding did not allow us to conduct extensive research. Our conclusions are not based on the weight of sample size, but on a collection of significant case studies that have highlighted the disruptive impact of the government policy on every aspect of the lives of these international students, and the absence of and inconsistencies of the evidence behind the allegation of cheating.

## Methodology

The research has been conducted through:

- Eight in-depth interviews: four with students still living in the UK, four with students who were deported or convinced by the Home Office to go back to their countries. Each interview lasted from between one hour and three-and-a-half hours.
- A short questionnaire, asking respondents: age and country of birth; year of arrival in the UK; original plans, courses in which they enrolled, reasons for studying in the UK; when they took the TOEIC test; when and how they found out that the test results had been declared invalid; whether they were personally accused of cheating and the consequence; the intention to take any action about subsequent government actions; and about support for a campaign. The questionnaire included 15 open questions and was filled out by 18 respondents. A copy of the questionnaire is available upon request.
- Close cooperation with a group of organised international students and continuous discussion with two of the students, Amin and Waqar, who are included in our case studies and helped in the research, distributing the questionnaire and recruiting research participants for the interviews as well as the planning of the whole campaign.

## **Key findings**

The key findings were grouped under the following headings:

- **Justice and Dignity**

In all the cases included in this research the Home Office failed to give any evidence of its allegations. Some students were accused of cheating at the Test of English for International Communication (TOEIC) test in a city or place they have never visited, or of taking the test on a date on which they did not take it. One student who has never ever taken the test was among those accused.

These students (and many others) were served with a section 10 Removal Notice (Home Office instruction to leave the UK immediately) and were told either that they had no right to appeal or that they could appeal only if they left the UK. They were forced to spend large amounts of money on legal procedures to defend themselves from the false allegation, or to manage all the legal procedures by themselves (with great difficulties) if they could not afford to pay a lawyer.

Most of the students and other victims have not only experienced a tsunami of troubles, and sometimes long periods of detention, but have lost their dignity and reputations in the UK and in their own countries, with further serious consequences. Despite all the money spent and the difficulties encountered in trying to prove their innocence, all are still waiting for justice.

- **Education**

The international students came to the UK with the aim of achieving good academic qualification on which to form the basis of successful careers in their own countries. They spent a lot of money to achieve this goal but were stopped from completing their studies - even in cases where they won the appeal and cleared their names.

Despite all the hardships experienced since the allegation was made, some of the research participants highlighted that obtaining their academic qualification is still their main goal, though they have many other serious problems that need resolving. This was clearly stated by one of the interviewees who declared, "They can take everything from us, but not our education. I came here to get a degree and I'm not going anywhere without it."

- **Job and Financial Troubles**

All the research participants were served with mandatory instruction to leave the UK immediately and left without rights in the UK. They cannot work or access any benefits. They lost their job or were denied access to a job, spent all their savings, and have been living for years borrowing money from families and friends. Debts have mounted and they are unable to give the money back.

- **Housing**

Having only temporary admission in the UK, these people do not have the right to rent accommodation. Since the allegation, they have been living with friends or family members, sometimes in temple property or in a community centre, often moving from one place to another. They can be deported at any moment. The people who host them also suffer stress because the immigration officers can arrive to their homes anytime.

- **Health**

Although all the research participants were young and healthy when they arrived in the UK, most have started to experience health troubles since the allegation, in some cases during or after a period of detention. The large majority of participants have mental health conditions for which they are being treated. Sometimes even their family members experience the same difficulties. Stress impacts on health in a variety of ways and a number of the students have started suffering from heart troubles, hyperthyroidism, and other diseases. Some even have suicidal thoughts.

- **Family Conditions and Relationships**

Some respondents are married and have family in the UK who have been affected by the difficulties, including similar health complications to those faced by respondents. In a few cases family members have accused the students of being responsible for the desperate situation they are in. Some families have been separated by the Home Office: for example, Mohammed<sup>1</sup>, who was deported in a matter of hours, leaving behind his British, disabled, wife.

Students who went back to their countries often found little help from their families because the families could not understand, or did not believe, what happened in Britain. Their families think that the UK is a fair and democratic country where such things cannot occur, and that their children must be guilty - as happened with Naveed, who was rejected by his family.

- **Hopeless Future in the UK and Abroad**

The research respondents arrived in the UK between 2004 and 2011. All were young, full of energy and hope for the future. Their time in the UK was their “golden age,” as one of the participants called his youth, and they lost not only years of life, money, education, jobs and health, but also their dignity. They cannot go anywhere, nobody will give them a job (in the UK, in their countries, or elsewhere) because they are seen as criminals, and even their families and fellow nationals don't respect them anymore.

They need to have their names cleared and their lives back.

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<sup>1</sup> The name has been altered

## Our analysis

The research clearly shows how the Home Office policy towards the international students who sat the TOEIC test between 2011 and 2014 has had a devastating impact on all aspects of their lives and their families, within and outside the UK. Although we were able to contact only a limited number of affected individuals, their experiences offer graphic examples of the impact of the unproved allegation of cheating. They arrived here attracted by the high reputation of Britain's educational system in order to establish a foundation for successful careers in their own countries but were denied their education and their rights: they lost everything.

They spent tens of thousands of pounds on university fees, living costs, and legal procedures, and the only result was that their lives were destroyed.

All the students we have been in touch with speak good English, and they generally had had part of or all their education in British language schools and universities before their alleged crime of cheating in the language test.

All the research participants highlighted how the Home Office failed to provide any evidence of the allegation against them. They could not, therefore, contest the evidence — a basic tenet of any system of justice.

In some cases even the general accusation, that cheating had occurred in a particular place on a particular date, was found to be erroneous because the students concerned had not been in the named city at the alleged time.

One of the students, Om for example, never sat a TOEIC test but was accused of cheating at it. It cost him three years and about £10,000 in legal costs to clear his name, only to be told that the university was refusing to allow him to continue his studies and complete his degree.

Also astonishing and unjust are the cases of Amin and Abdul<sup>2</sup>. Amin took the TOEIC test in London but was accused of having cheated at a test in Leicester, a city he has never visited. He has also proved that he was in London on the test day. Abdul was accused of cheating in the test on a date different from his actual test date.

Despite the lack of any evidence of fraud, these students have been punished and criminalised. They were declared guilty by the Home Office, not by a tribunal, and were not allowed to defend themselves in the UK. Most were given an out-of-country appeal right, with all the consequent costs, difficulties and inconvenience. Some found they had no right of appeal at all.

Many research participants denounce how they did not receive a notification letter about the allegation but became aware of it while dealing with another matter, or when the enforcement officers suddenly arrived at their home to arrest and detain them.

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<sup>2</sup> The name has been altered

Several such incidents are described in the eight case studies reported in this report. Take the cases of Amin and Abdul.

Take the cases of Amin and Abdul.

One morning, in February 2015 a dozen officials arrived at Amin's home and arrested him. It was only at that moment that he discovered he had been accused of cheating. The officials did not give him anything in writing, but only accused him verbally. Later, Amin discovered that the allegation had been made months before (in October 2014), but neither he nor his solicitor had received any notice of it.

Similar, in October 2014 Abdul, who had recently married and found a job as a business development manager, was waiting for his working visa. He assumed it was a straightforward administrative matter because he had not been made aware of any problem. At 6 am he and his wife were woken by enforcement officers who had broken the flat door and entered their bedroom. They accused him of having cheated at the TOEIC test and arrested him.

Other interviewees discovered the accusation made against them while applying for or renewing a visa. Their application was denied because of the allegation, often after a long wait and sometimes after a previous refusal for a different reason.

In some cases students were made aware of the allegation through the university. Waqar asked the university administration for information about his last semester of studies and was told that he had been withdrawn because of the allegation. Later on he received a notification letter from the university and, after a month, a letter from the Home Office notifying him of the cancellation of his visa.

Waqar, like the other students, received no help from his university about dealing with the situation and defending himself. The university told him it was simply following Home Office instructions. He was left shocked, with no knowledge of the legal system in the UK and no money to pay a solicitor. He tried to learn the necessary procedures and managed to take legal steps, with a little help from a family friend, but to no avail. A few months ago, he was finally able to get legal aid and found a solicitor.

Many other students spent a fortune on legal challenges, with no better results. Some had already paid legal expenses for previous visas refused for different reasons unrelated to the English test, but in those cases they had an in-country appeal right and were able to win the case, although spending thousands of pounds (£2,000 in the case of Amin, £4,000 in the case of Ronak).

For these and other reasons, defending themselves against the allegation has proved virtually impossible. Even after spending large amounts of money, they have not had justice. Naveed spent about £30,000 on legal procedures before going back to Bangladesh, from where he is still fighting for justice thanks to his solicitor in the UK who is acting for free because Naveed has run out of money.

Not all students were able to appeal against the Home Office decision. Many didn't have the money or the ability to deal with the complicated legal procedures. Some, like Shammi, believed assurances by immigration officials that all the students against whom allegations had been made had to leave the UK but that she could easily re-apply for a visa and return after a year. After going back to Bangladesh and finding the officer's words were untrue, she felt cheated.

As well as students who left because they believed that this was the simplest way to complete their studies later on or who ran out of money, there were some, like Naveed and Ronak, who were exhausted by trying to understand and fight the injustice that had occurred in the UK.. Many others have been deported, sometimes instantaneously and with no notice - even leaving their family behind in the UK. That's what happened to Mohammed. At midday on 22 November 2016 he was arrested, detained, and at 9 pm was deported to Bangladesh. He wasn't even allowed to see or speak with his British, disabled, wife before being forced on the airplane. Since then, both Mohammed and his wife have started to suffer from mental health problems, like many other victims of the allegations.

All the research participants arrived in the UK young and healthy, but most started to experience health problems shortly after the cheating allegation was made. The most common diagnosis has been depression and other mental health conditions. For some students desperation and hopelessness have caused suicidal feelings. Heart troubles, hyperthyroidism and other illnesses, often stress-related have also been diagnosed.

Detention has been a common trigger for ill-health, which has often been exacerbated by poor treatment, as in Shehbaz's case. He had panic attacks during his two-month detention, during which he was once left on the floor for nearly three hours before an ambulance was called.

All research participants who are still in the UK are barred from working or from access to any public support and have no right to rent a place to stay. For several years they have been living with the help of friends or family members, often moving from one place to another, borrowing money from everyone and accumulating debts to survive and try to defend themselves from the false allegation.

Many students have not told their families, because of the stigma of an allegation of cheating., Families keep asking them when they will return to their countries. The students answer "soon," but they have no idea when they will be able to clear their names, complete their studies and go back home with dignity.

Those who (whether by force or "voluntarily") returned to their home countries without having had their name cleared and with other problems unresolved, have been experiencing an even a more difficult situation than those who remained in the UK because of the allegation. None has found a job, and they are generally perceived as criminals by fellow citizens, including their own families. People there believe that the UK is a democratic country, "the father of democracy and justice," in Amin's words, so cannot believe that the accused students are innocent.

Naveed was so stressed by his situation in the UK (where he had mental therapy for more than one year) that he returned to Pakistan. But his life has become even worse, and he is now desperate. His family rejected him for bringing shame on them. He left his home village and has been moving from one community centre to another, looking for temporary shelter in places where no-one knows him. He was in hospital for three months and continues to suffer from mental health problems.

Mohammed also started to experience mental health difficulties after his return to Bangladesh, where everyone asks why he has been deported. Ronak, back in India, where people know he was detained for nine months and regard him as a criminal, describes his life there as "hell". Shammi describes her life in Bangladesh as a "torture".

These stories show how the Home Office policy of criminalising thousands of people with an unproved allegation has had an impact on people's lives well beyond the UK national borders.



## Responses to the questionnaire

The questionnaire was completed by 18 students. They arrived in the UK between 2004 and 2011, mostly from Bangladesh, Pakistan and Nepal, but also from India and Sri Lanka. Most of them are now in their 30s, and a large majority took undergraduate or postgraduate courses in business studies, apart from a few who studied computing, engineering and law.

The high reputation of the British education system attracted them, as emphasised one of the respondents: “it’s very renowned all over the world.” They came here with the idea to gain knowledge, experience and a highly regarded academic qualification that would provide the basis of a successful career in their home countries.

When answering the question about what they intended to do after completing their studies in the UK, none mentioned the intention of settling in the UK.

They had to take a recognised English test in order to obtain or renew their student visa and generally chose the TOEIC test because this was the most widely used and more than sixty per cent of respondents said because there was a long waiting time for other tests. A couple of students said they would have preferred the IELTS test as they had already taken it in their countries.

Respondents took the TOEIC test between 2011 and 2014, with one significant exception: Om, a 36-year-old Nepali, who studied at the West London University. He never sat the TOEIC, but in 2015 he was withdrawn by his university because his (non-existent) “TOEIC certificate was invalid.” He spent three years and £10,000 on legal procedures before finally having his name cleared, but the university did not allow him to continue his studies and complete the degree.

Five students have been detained one or more times for several months. Their experiences in the detention centre were horrible, as described Mohsin, the 29-year-old Pakistani, said: “I was mentally tortured in the detention centre, where you have to share the room and the wings with criminals. I couldn’t sleep, had no proper food, and it was difficult to get medicines, even paracetamol. I was mistreated like a slave.”

Detention also had a strong impact on their health. Shehbaz, a 30-year-old Indian, who was detained for about two months in 2016, said: “My experience was so horrific that I had panic attacks. Once I was left on the floor for nearly three hours because they believed I was acting. Then an ambulance was called and I was taken to Hillingdon hospital. I was completely broken mentally and physically with weakness. I felt like I was a criminal.”

Respondents who were not detained were required to sign regularly at a reporting centre, which has also has been an unpleasant and sometimes traumatic experience. “Appalling” and “horrible” are among the words used to describe the way they were treated there. Roni, a 30-year-old Indian man who has been reporting to Becket House in London since October 2014 (he is also included in our case studies), commented: “The environment of the reporting centre is horrible and I routinely get humiliated by the officers, they threaten

all the time to expel me from the country... They just behave with me like if I was a criminal.”

The impact of the unproved allegation has been devastating on all aspects of the students' lives. Nearly 80 per cent of our respondents declared health, particularly mental health, problems. Ahmed, a 29-year-old Bangladeshi, wrote: “My world has completely changed since this baseless allegation. I have lost my job, have no more money, and I'm borrowing to challenge the decision. I cannot accept this false allegation -it has a very negative effect on my social life and mental health. I'm completely depressed, and even getting mental health support from specialists. I came here to study and learn. I want to leave the country with pride.” Shayane, 36, from Pakistan, declared: “I am in too much stress, and many times I luckily saved myself from accidents while crossing roads.

Health troubles almost inevitably lead to financial troubles, as most of the students have no access to the NHS. Rabi, a 29-year-old Nepali, was refused maternity service for his wife by the NHS and was charged £5,500.

The allegation doesn't impact only on the students, but on their families as well, and this contributes to increased stress and depression. Shehbaz wrote: “All my personal and academic life is affected. My career is damaged. My courage is broken. I lost confidence in myself. My family is affected. I'm scared of seeing myself in a mirror.” Rassel, 40 from Bangladesh, explained: “I feel guilty as all my family members and kids, who were counting on me, are now suffering because of me. They all are blaming me as if it was my fault to have taken that stigmatic TOEIC test.”

All respondents have been fighting the Home Office decision, trying to prove their innocence, to clear their names, and return to their studies and normal lives. They have spent large sums of money and time on legal procedures, to no avail, apart from a couple of cases: that of Om, already mentioned, and that of Piragalathan, a 32-year-old Sri Lankan, who wrote: “I appealed against their decision and won the appeal on 13 April 2015 but until today I haven't heard from the Home Office.”

Even the only two respondents who won their appeals are still struggling and waiting for justice. They agree with all the other respondents that further action is needed to resolve the situation.

All the students in the questionnaire denounced the Home Office's failure to provide any evidence about the allegation and stressed the unfairness of not being given even a chance to defend themselves and prove their innocence in the UK. None of the respondents was given an in-country appeal right. Some highlighted as a further injustice the different treatment given to the same certificate holders: the majority had an out-of-country appeal right, others no appeal right at all, and others an in-country appeal right.

Some students, such as Ahmad, added a more general comment on UK immigration policy: “I was treated like an animal. It was completely unjust and unfair. I did not commit any deception, neither did I take part in any fraudulent activity in my entire life. ... This was

a Home office deliberate abuse of power in order to reduce the number of immigrants in this country.”

Several students defined the treatment they received in the UK as “unfair” and “inhumane”, denounced the deprivation of their human rights, and said that the UK is a “dangerous zone” for foreign students.

## Broken lives: case studies in alphabetical order

### Abdul's story<sup>3</sup>

#### *Accused of cheating in the English test – on a day he didn't take the test*

Abdul, a 34-year-old Bangladeshi, moved to the UK in 2009 to study at the University of Sunderland. He took an extended diploma in management and leadership and a masters in business administration, successfully completing his studies in 2013.

In 2012 he took the TOEIC test on 15 June (listening and reading) and 20 June (speaking and writing): the Home Office has accused him of cheating, but refer to the test date as 26 June.

***“I woke up and found they were in my room.”***

Abdul did not need to take the TOEIC test, as he had already taken the IELTS (another recognised English test) to extend his student visa but he was not satisfied with his results. He had obtained a score of 6 in speaking and, for his personal satisfaction, wanted to get a higher mark. So he decided to sit another test: he took the TOEIC (and

obtained the same result). He could not imagine that this choice would ruin his future a couple of years later.

His life in the UK was going well. In June 2014 he married a Pakistani woman and found a job as a business development manager. He immediately applied for a work visa sponsored by his company.

On 9 October 2014, while waiting for his new visa, he was suddenly arrested. At 6am he and his wife were asleep. They did not hear knocking at the door. Immigration officers broke the door and entered in their bedroom.

“I woke up and found they were in my room,” he recalls. “I had no idea why they were there. They said: ‘You have no legal right to live in this country because you cheated on your English test... We accuse you of having had somebody else take the test for you. So we need to deport you’. It was something shocking. We never expected, we never thought, that such a thing could happen. My wife didn't know what to do.”

The officers also questioned his wife, but she had no further trouble. Abdul was given just a few minutes to go to the lavatory to wash and dress before being taken in a van to Becket House Reporting Centre. They stopped in a couple of places to collect other people and arrived there at about 10am. He spent several hours there (during which he was fingerprinted and photographed), and at about 5 or 6 pm he was forced back into the van and moved to Dover detention centre, a couple of hours away. Only at that point was he able to call his wife.

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<sup>3</sup> The name has been altered

She had spent all day calling everyone she knew for help, but nobody was able to help without knowing exactly what the situation was. After, she contacted a solicitor, and Abdul sent him all the relevant documents from the detention centre. The Home Office notification letter accused him of cheating but cited no evidence: even the date on which the cheating was alleged to have taken place was not the date on which Abdul took the TOEIC test. "So, you can imagine that they just didn't have any proof," he says. "They used the same statement for everyone: 'We believe someone else took the test instead of you'."

On receipt of the letter Abdul immediately applied for judicial review and to be released on bail; his wife and the director of the company for which he was working were ready to act as guarantors. The bail process was not necessary, as he was released after 13 days with temporary admission and on condition that he signed in at the Home Office reporting centre every fortnight.

His freedom from the detention centre did not last long. On 18 March 2015 he went to the Home Office reporting centre to sign, and was arrested again because his judicial review application had been refused. No notice of the refusal had been sent to him or his solicitor.

Abdul was detained, this time for 57 days, first in Tinsley House detention centre, then in Brook House detention centre, where he was suddenly transferred a couple of weeks later while he was having his hair cut. "They didn't allow me even a few minutes to complete the cut," he says. "They immediately took me to Brook House. That was horrible - you cannot imagine! In the room there was a window but you could not open it, and the toilet had no door. At 6pm they lock the door till 8am, then lock it again at 11 am ..... You get only a few hours outside the room. It's a horrible feeling to be locked in."

While Abdul was detained, his wife, a qualified nurse, found a job in a hospital and obtained a 3-year work visa. Abdul applied for a family and private life visa, to no avail. He was released on bail (with his wife and company director acting as guarantors) on 13 May 2015.

"How much had I gone through!" he says. "Then I applied for a new visa as a dependent of my wife, but they also refused this application (in March 2016), again because of the [cheating] allegation ... I wrote so many times to the Home Office saying: 'The date you wrote is wrong'... I asked to re-take the test, but they never gave me any opportunity to go to the Court or re-sit the exam... They would only say: 'You will be removed very soon or, if you want to leave voluntarily, we will arrange everything'."

Since the allegation, Abdul has been fighting to prove his innocence.

His mother has been asking him why he does not visit her in Bangladesh, but he does not want to tell her what has happened to him: "She is old and I don't want to stress her."

Abdul's wife works and supports him. That is why "I'm still alive," he comments. "It's three and a half years I cannot work. My wife pays the rent, so I'm just allowed to stay under her name, you can say. The landlord doesn't know I have all this pending, otherwise I would have problems."

Despite all his suffering and repeated refusals to hear his appeals and visa applications - that have cost him more than £35,000 - Abdul is convinced that he will be able, one day, to prove his innocence and regain control of his life. He is fighting not only for himself, but also for his one-year-old daughter, who he cannot offer the life he would like.

His old job is still open for him, but he has other plans for the future, though not in the UK where he has suffered so much. One year ago he applied to go to Canada, but could not provide all the required documents without having his name cleared. The allegation of cheating in the UK blocks his life not only in this country, but everywhere in the world.

He still plans to go to Canada, after the cheating allegation has been withdrawn. In the last years he has taken two English tests, for his own satisfaction, with good results. He simply wants to have his name cleared so he can leave the UK.

## **Sheikh Shariful Amin's story**

### ***Accused of cheating somewhere he has never been***

Sheikh Shariful Amin (who goes by Amin) speaks fluent English and has two degrees, one from the Manarat International University (with the whole course of studies in English) in his native Bangladesh, and a business administration degree from the University of East London where he studied from 2008 to 2010.

In 2012 he took the ToEIC English language test at the Blue Moon Academy in East London. The Home Office has subsequently claimed that he took it, and cheated, at Colwell College in Leicester, although he has never been there and has proof that he was in London on the test day.

After graduating from the University of East London, he obtained a PSW (post study work) visa but couldn't find a good job, so decided to start his own business. In 2012 he applied for a tier 1 entrepreneur visa as he had sufficient funds to start a business (£50,000 personal and family savings) and met all the required criteria. The visa was refused because of a missing phone number in a third party company letter that formed part of the application. The letter was from a company that was just moving to new premises at the time and didn't have its new phone number. Amin appealed, and in 2014 the court ruled in his favour.

By February 2015, after some difficult times and legal costs of about £2,000 for the appeal, things were finally settling. Amin had started his business, had two British employees and was busy and excited working at his first assignment.

But on 5 February 2015 everything changed: "At 8:05 in the morning ten or twelve officials came to my home. They said 'We are here to arrest you because you did fraudulent activities with your English test exam. We have evidence from ETS (the company running the test) you used someone for your speaking test. We are going to deport you tonight.' They didn't give me a notification letter, they just accused me verbally. They immediately

took my passport, money and mobile, without allowing me to call anyone. On the same day my bank account was temporarily frozen and I lost every right in the UK because of section 10 [notice to remove a person from the UK under section 10 of the Immigration and Asylum Act 1999].

This decision had been taken in October 2014 but I had not received any previous notice. The Home Office never sent a letter to me or my solicitor before that morning."

That was the start of what seemed like the longest day of Amin's life and the beginning of innumerable troubles that still need to be resolved.

"The officers gave me just five minutes to go to the toilet –without allowing me to shut the door that was just in front of a lady officer – before taking me to their van," says Amin. "It was cold and there was no heating in the van. They took me to the Becket House Reporting Centre, near London Bridge, put me in a locked room together with three other detainees, without saying anything. I was hungry and asked the officials to buy some food with my money, but they refused and said 'You are only allowed to drink water.' I remained in that room for about one-and-a-half hours before being allowed to call three numbers. I then phoned some friends and asked them for help and to contact my solicitor."

Amin was then forced back into the van, with other detainees. They stopped at a couple of detention centres to collect other detainees before arriving at Brook House Detention Centre, at 9:30pm. He was given only water and a few biscuits, after a whole day without food.

***“My family would not be able to accept me while I was accused of such wrongdoing.”***

He was tired, hungry, and shocked. He describes Brook House “as a proper massive prison. They allocated me a room, with no window and an automatic door. There was another detainee and we had to share a toilet with no door. The smell was all over the room.”

Amin was held there for a few days before being granted temporary admission and asked to report to Becket House in person once a month. Since then he has been fighting to prove his innocence, while his troubles have increased.

Having been given a section 10 removal notice , Amin has practically no rights in Britain. He cannot work, cannot study, cannot rent accommodation, cannot even drive as his licence was revoked at the time of his arrest.

Like most of the individuals affected he can only appeal against the allegation made against him from outside the country. He applied several times for judicial review [A court considers the lawfulness of a decision taken by the government department or official.], always adding new documents to support his case, but twice he failed to get permission for a judicial review and is now waiting for the result of his third application.

“The law did not help me,” he says. “Because of the Home Office decision I lost everything in one night. Since 2015 I have spent about £15,000 on this litigation process, but until now haven’t received any answer or been given any opportunity.

“I have never been convicted by the court but the Home Office punished me taking all my human rights.

“I came to this country as a genuine student, and then applied as a genuine businessman. At this point in my life I have lost everything: my money, my reputation, my time, especially my time: I came in 2008, we are now in 2018. What have I achieved? My golden time is nearly finished.

“Right now my question is: Why have they taken this decision against me? Until now the Home Office has failed to show any single piece of valid evidence ... What I have lost I’ll never have back.... My savings are gone, my business is gone, my health is gone. Right now I’m a heavily ill person, physically and mentally. I’m on medication and sometimes I cannot even buy medicine because I have no money.”

Since the allegation, Amin has survived with the help of family and friends. He has borrowed money from many people and is unable to pay it back. Because of the anxiety and tension caused by the situation, he hardly sleeps more than four hours and has developed hyperthyroidism and heart and mental health problems. He always carries a lot of medicines.

He lives with friends, but the Home Office could arrive at any moment to arrest or deport him. So the friends, too, suffer from tension.

His parents have helped him but cannot do so any longer. They have been told that he has been struggling with immigration procedures, but do not know about the cheating allegation and the ensuing problems, and they do not understand why his life has not progressed in the last three years.

They have high regard for Britain. It was Amin’s father who convinced him to study in the UK (he wanted to go to the US or Canada) because of the quality and prestige of Britain’s education system. “How could I tell them that I was detained?” says Amin. “How could they believe that the UK does something like this? They would not be ready to accept me while I am being accused of such wrongdoing.”

Since 2015 Amin has been fighting against this allegation that has ruined his life. He contacted his local MP, Stephen Timms, who was quite supportive, and linked up with other Toaic victims because “you cannot fight the disaster alone, you have to group.” He could be deported at any time.

Despite all his efforts, Amin is still waiting for justice and is losing hope for the future. The unproved allegation has ruined his life not only in the UK but also in Bangladesh, where his family would not accept him and where he tried to apply for a job that was withdrawn as soon as he had to declare the allegation.



Amin has spent more than £50,000 in the UK on legal and university fees and other expenses, and ten years of his life that should have marked the start of his career. In return he experienced, in a country that he and his family considered to be “the father of democracy and justice,” the cancellation of his human rights and professional opportunities, both in the UK and abroad.

## **Mohammed’s story<sup>4</sup>**

### ***Detained and deported in one day, unable even to say goodbye to his wife***

Mohammed moved from Bangladesh to the UK as an international student in 2010. He arrived full of hope for his future, and his first years in the UK were positive. In 2012 he took a diploma in IT at the London School of Technology, then sat the TOEIC English language test (at the London School of Technology) and continued his studies for a higher diploma at the same school.

In 2014 he married a British woman, and they were happy to start their new life together.

***“I asked to see my wife a last time...they didn’t allow me.”***

But when he applied for a spousal visa he discovered he was one of the many people accused of cheating at the TOEIC test. In 2015, after a six-month wait, his visa was refused because of the allegation, and his life was suddenly disrupted. He started reporting every fortnight and his life became a nightmare.

“Every day was devastating,” he says. “I couldn’t stay calm, I was mad. I never missed any reporting date and every time I wondered if that was the last one, if that would be my last day in the UK with my wife”.

Mohammed’s solicitor wrote a reconsideration letter to the Home Office, but he did not receive a reply. Then he applied for judicial review [where a court considers the lawfulness of a decision taken by the government department or official.], which was refused in February 2016. On 22 November 2016, Mohammed was detained and deported within a few hours. He was not even allowed to say goodbye to his wife before being forced into the airplane back to Bangladesh.

“When I went to the reporting centre, at noon, they detained me, and at 9 pm I was deported. I asked to see my wife a last time, but they didn’t allow me to see her,” Mohammed recalls. “They immediately took my mobile and all my personal belongings and I wasn’t even able to call her. All the time, all the time, I asked to contact her. They brought me home, but she wasn’t there. It was devastating! I cannot explain... it broke my heart! ... I left everything behind and didn’t see my wife.”

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<sup>4</sup> Name has been altered

Since his return to Bangladesh, Mohammed has been trying to obtain a spousal visa and get back his family life, but so far with no result. Twice he applied for a new spousal visa and appealed against its refusal. The unproved allegation blocks him from moving on in his life, and he feels lonely and desperate.

“I didn’t do anything wrong. I’m an honest person, not a criminal,” he says. “I speak English, I didn’t need a proxy... The Home Office failed to show any proof of the allegation... I asked ETS (Educational Testing Service) to give me the details of my exam but they replied that they didn’t have anything. ... The previous Home Secretary, now Prime Minister, is responsible for the deportation of thousands of students from the UK, including me. There are so many students who haven’t had a chance to prove their innocence in court! I want everyone to know what happened to the students who have been deported, to know what’s going on.”

Mohammed desperately loves his wife and misses her terribly. “My life with her was very comfortable. Every day we loved one another, every day we talked, every day we went out. Every day was very nice, but the Home Office action ruined my life.”

Now, even communicating with his wife is quite difficult because she is deaf and they use sign language to communicate. Sometimes they write to each other or use video-link but it’s unsatisfactory: “It’s like talking with a robot,” he says, “you have to deal with something else, with an object. That’s nothing! It’s nice to live as husband and wife.”

Mohammed faces enormous difficulties in Bangladesh. He has no job, has exhausted all his savings, and is looked at with suspicion: “There is no life for me because I have been deported. My life is gone, I have lost my reputation in the UK and here. Everyone asks me: ‘Why have you been deported? What have you done in the UK?’ People think I committed some crime and look at me with suspicion. It’s difficult to find a job, employers treat me like a criminal.”

Fortunately, Mohammed’s family and friends are supportive. They do not believe that he cheated in the English language test, but they don’t understand what happened. He doesn’t know what to do. His health has deteriorated: “I can’t sleep. When I close my eyes I start thinking about what happened to me. Every time I go to the doctor I get tablets to sleep, but they don’t work.”

Similarly, Mohammed’s wife left behind in the UK, has health problems. She now has an eating disorder and is being treated for severe stress.

Mohammed feels ashamed and devastated. He emphasises that he will never recommend to any Bangladeshi student to come and study in the UK. Most of the victims of these allegations, as far as he knows, are from South Asia, so he thinks that students from the region are particularly badly treated and discriminated against in the UK. He wants his name, and that of all the students, to be cleared. He says he will keep fighting for this, and he insists that everybody must know how the students were treated in the UK.

Mohammed says that if he wins his most recent appeal he will re-join his wife in the UK and that if he loses he will appeal again and keep fighting to get his life and family back.

## Naveed's story

### *Stolen dignity – the stigma follows him like a shadow*

Naveed is a young Pakistani who came to study in the UK in 2007. He spent five years at Kensington College in London, where he took a pre-degree course followed by a business studies degree in 2012. After graduation, he was given a post-study work visa and worked as an assistant manager in a company for two years. In September 2014 he applied for an entrepreneur visa - but then his upward trajectory was halted in its tracks.

In 2011 Naveed had taken the TOEIC English language test in order to extend his student visa, and in February 2014 the Home Office accused him of having cheated at the test.

Overnight he lost his job, his house, and all his rights in the UK. He was obliged to report to the Home Office reporting centre every week, while fighting to prove his innocence. His solicitor's application for judicial review [where a court considers the lawfulness of a decision taken by the government department or official] was refused, as was a subsequent application to the Court of Appeal.

Naveed was pushed into a precarious existence. Without a place to live, he stayed with friends, cousins or in a community centre. Soon he started to develop mental health problems.

"I was suffering a lot," he says. "No job, no house. I was mentally very ill, I couldn't sleep, my mind was not present. I didn't remember what people said and didn't understand what they were talking about. I was hospitalised for a few days. Then I had mental therapy for more than a year, every week. At the final stage, doctors advised me to leave the country. My solicitor gave me the same advice. In June 2017 I left the UK."

Immediately after Naveed's departure, his solicitor lodged an out of country appeal. He did so out of a sense of solidarity because Naveed had no more money to pay him, having spent about £ 30,000 on legal procedures and another £ 20,000 on his studies in the UK.

Since his return to Pakistan, Naveed's life has proved even worse than in the UK because of the stigma of the allegation of cheating. His family rejected him. They believe that the UK is a fair and democratic country, where injustices as those experienced by these students cannot exist. They assume Naveed must be guilty and brought shame on the family. "My dad believes in the UK authorities instead of believing in me," Naveed says, "and he doesn't accept me at home. He said 'I sent you to the UK to study, and you brought this allegation, you did wrong!' All family members consider me guilty and no one is helping me."

***"I couldn't  
sleep...my mind  
was not present."***

A few months after his return to Pakistan, Naveed left his home village and since then has been on the move, going from one community centre to another, looking for temporary shelter in places where no one knows him. He spends a couple of days here, a couple of days there,

with no job, no money, and no hope for the future.

“I don’t see any brightness for the future, it stays in the dark,” he says. “I have spent ten years and two months in the UK and my future has been ruined. I have lost my dignity in the UK. I have gone from the top to the bottom.”

Naveed’s health has not improved since his return to Pakistan. Despite a three month stay in hospital he continues to have mental health problems and can hardly sleep.

He left Pakistan in 2007 as a young, healthy man, full of hope for his future, highly respected by his family and local community. Ten years later he returned ill, with large debts, his dignity stolen by the hostile environment policy of the Home Office, and rejected by his family and local community, who consider him a criminal.

He feels alone. In the UK he had friends who were living through the same terrible experience. Together they fought for justice. In Pakistan he is isolated, and nobody understands what he has experienced. He wants his dignity back.

“I have to regain respect,” he emphasises. “I’m suffering a lot presently. I have to show to my mum, to my dad that I was innocent. I have no contacts with them anymore. I write them letters but they don’t reply. Once my parents allow me home again, and look after me, I’ll be able to recover and get a job.”

Naveed is still fighting to prove his innocence, with the help of his solicitor in the UK, but appealing from abroad and in such a situation is difficult. Sometimes even the simplest matters, such as communicating with his solicitor, become complex. Often Naveed has no money to buy credit for his mobile and they cannot speak on the phone or communicate through the Internet.

Furthermore, Naveed feels embarrassed about asking for information from his solicitor because the solicitor is not charging him a fee, but without the solicitor's help, Naveed cannot clear his name.

Despite all these difficulties, and having waited for a long time, Naveed was finally supposed to have an out of country hearing on his case in June, but the hearing did not take place because the Home Office failed to provide the video link facilities in court.

## **Ronak’s story**

### ***Detained for months in the UK, then back to India where life has become hell***

Ronak is a young Indian who came to the UK in 2007 on a working holiday maker visa (a special visa for Commonwealth citizens that was replaced by the Tier 5 youth mobility scheme in 2008). He worked as an accountant in an estate agency in London, returned to India, and then decided to continue his studies in the UK. In 2009 he enrolled at the University of Wales, where he obtained a post graduate degree in business management.

In 2011 he took the TOEIC English language test at Ethames College in London and enrolled for a three-year accountancy course at the Trans-Atlantic College in London. After a year, however, the Home Office ordered the College's closure.

The Home Office didn't send a letter to the Trans-Atlantic College's students to advise them to look for a new sponsor, but the college administration recommended Ronak to do so. Ronak was accepted by Interlink College in London to continue his course.

Obtaining a new visa, under Interlink College sponsorship proved to be a long and expensive process that eventually led to the breakdown of his family union.

The Home Office refused his visa application, on the grounds that he did not apply within 60 days of the date of the Home Office's letter informing students that the college was going to be closed and that they had 60 days to find a new sponsor. Yet Ronak did not receive such a letter and neither, as far as he knows, did any of the other students.

Ronak appealed against the decision. It took him about one year and £4,000 in legal expenses to win the case and finally obtain the visa in July 2013.

It had been a hard year, full of difficulties. His wife was worried about her future and that of their daughter and pressed him to return to India, but he wanted first to complete his studies in order to ensure good professional opportunities when he finally went back. He told her: "Let me first finish my studies, otherwise what could I do in India?" She wasn't convinced and in May 2013 his wife left him and returned to India with their daughter.

To make matters worse, in September 2014 his visa was cancelled, because the Home Office accused Ronak of cheating in the TOEIC test. Immediately Ronak contacted his solicitor again, who wrote a letter supporting him to the Home Office. Ronak was served with a removal notice [under section 10 of the Immigration and Asylum Act 1999] and was required to go sign at the Home Office every fortnight. But he did not do so because "reporting centres are for "illegal" people while I was a genuine student."

Ronak missed three reporting dates, and on 9 December 2014 immigration officers arrived at his home to arrest him. "I saw them arriving," he says, "if I had wanted to run away I could have, but I didn't because I'm a genuine student. Why should I run away? I didn't commit any fraud, any crime. I opened the door and showed them my passport. They took it and said they were going to take me to the Dover detention centre."

They took him to Barking Police station, where he remained for more than fifteen hours, then to Dover detention centre, where he remained for 58 days. "It was a horrible experience," he recalls. "Every day they torture you, they come into your room and say 'you have to go back to your country'." Ronak's solicitor was able to block his deportation through judicial review [where a court considers the lawfulness of a decision taken by the government department or official]. On the 2 February 2015 Ronak was released with temporary admission on condition that he signed in every fortnight. It was during this period that he started to have mental health and heart problems.

Life was tough. He couldn't work, couldn't study, couldn't do anything, as he had no rights in this country. Ronak lived in a property owned by a Hindu temple, with the help of friends. In India his wife applied for divorce, and his father underwent two operations.

He regularly went to sign, but on 2 December 2016 he was arrested again. When he went to the reporting centre that morning, the official called him to the office.

"I thought maybe they wanted to check my English," he says, "but they just asked me my name and personal details, took a picture, and left me in the room for a couple of hours. Then they told me: 'We'll take you to Brook House detention centre and deport you in one week'."

Ronak stayed two months in Brook House, before being moved to Colnbrook detention centre, where he spent another seven months. "I wrote to my local MP, Stephen Timms, and he wrote the Home Office a letter asking them to release me, but they replied they weren't going to release me anyhow. I also sent the Home Office many letters, explaining that I'm a genuine student, I have a master's degree, I haven't done any crime and have been regularly reporting for two years. I asked them: 'Please let me finish my studies and I'll go back to my country'."

In March 2017, Ronak applied for asylum; he didn't want to, but he needed to gain time to avoid deportation and resolve the situation. His application was refused in May.

***"Please let me finish my studies and I'll go back to my country."***

When he was finally released on 24 August 2017 he was exhausted. On 10 January 2018 he went back to India: "I wanted to fight for justice, but lastly I gave up." "Mentally, physically, financially, family wise, I was tired and I decided to return." Ronak appealed again from India, to no avail.

He spent £24,000 in the UK for his studies and £6,000 on legal fees. He stood up to the Home Office and fought for justice in the UK for more than five years, experienced long periods of detention and every sort of difficulty, lost his family, all to achieve his aim: to go back to India and have a successful career there.

Currently he is struggling to get a job in India, and his family is upset about what happened in the UK. "We lost our reputation here in India," he says. "Everyone knows that I was in detention for nine months. Here people think that I have committed fraud or a crime of some sort. Life became hell in India."

## **Roni Mandal's story**

***"I came here clean and I want to go back clean -***

***Just let me finish my degree"***

Roni Mandal always dreamed of completing his studies abroad in order to help create a career for himself in India. His father, a much-travelled businessman, encouraged him to study in the UK because of the high reputation of the educational system. His cousin, who had already left India to study abroad, and a London friend also encouraged him, and in 2011 he moved to the UK to study business management at the London Guildhall College.

In 2012 he completed his course, took the TOEIC English language test at Colwell College, and applied to the Sinclair Adamson Business College for a more advanced course. Unfortunately, the college lost its Tier 4 licence and was no longer allowed by the Home Office to have international students. Therefore Roni shifted to St. Andrews College, where he started an accountancy course before deciding to go to the university to study business management instead.

In 2014 he was admitted at the Trinity Saint Davis University of Wales, London campus, and was granted a 43-month university visa. He didn't realise that he needed to notify St. Andrews College, and that led to his first troubles. The college informed the Home Office that he was not studying there, and the Home Office wrote to Roni giving him 60 days to find a new sponsor, without considering that he already had a regular visa under the Trinity Saint Davis University's sponsorship. Roni showed the letter to the university and was told not to worry because he already had a visa. Later, Roni received a second letter from the Home Office, asking him again to look for a new sponsor. This time the university contacted the Home Office asking the reason for this, and it turned out that there was an allegation against him of cheating on the TOEIC test.

In October 2014 Roni's visa was cancelled by the Home Office because of the cheating allegation. "They just said I cheated, but failed to provide any proof of evidence," explains Roni, "I didn't need to cheat! I took the IELTS (another recognised English test) in India and had no problems to take the TOEIC after I had been studying in the UK. My university didn't help me in any way; they didn't even write a letter to confirm that I was a regular student. The university just withdrew me, they said they had specific directions from the Home Office and were only following them."

Roni lost the £5,000 he had paid for his first year of university and since 2014 has been fighting the Home Office decision. He appealed several times and spent about £10,000 on legal procedures, to no avail.

Having been served with a section 10 removal notice [under section 10 of the Immigration and Asylum Act 1999], and out of country appeal rights, Roni is left with no rights in this country and it is difficult for him to prove his innocence.

"Some people have been given in-country appeal rights. They can directly go to the court and prove their innocence," he says. "How can they give some people in-country appeal rights,

some people out of country appeal rights, and some people no appeal rights at all, with no reason or evidence? I feel that they are discriminating against us, and this concerns a large number of students.

“The government wants to kick out all the students. They can do with us whatever they want, because we are from non-EU-countries! We are not criminals, there was no investigation, no evidence provided, and then they put us under section 10. I know somebody who won the appeal from abroad but the government still refused to give a student visa, they said ‘apply for a visitor visa and then change it in the UK.’ But I know that once I leave the UK I will not be able to return.”

***“We are not criminals...there was no evidence provided.”***

Roni also contacted his MP, Stephen Timms, who was very supportive and wrote a letter to the former Home Secretary Amber Rudd, but with no positive result. Together with other students, he went to parliament in 2016 and spoke to the former chairman of the Home Office select committee, Keith Vaz. He too was supportive but later stepped down and couldn't help the students any more.

Roni hasn't given up and is still fighting for justice, while struggling to survive in a country where he doesn't have any rights. Since 2014, he has been living with the help of his family and friends. He lives with a friend, who pays the rent and all the expenses, and his family send him some money every month, but life is difficult in such a situation.

“I'm stuck with nothing to do, sitting at home,” he says. “Every day I wake up and wonder what my future is going to be. It's in the darkness! I came to study, I had ambition, I had hope, but now my hope is destroyed and I don't know what to do. I cannot sleep at night, I keep thinking ‘what can I do?’ I have lost so many things: money, time, even my girlfriend in India, who left me and got married. I should have finished my degree by now, I should be back home, in India, working with a career. I look at many friends who were studying with me: they finished their degrees and went back to India. I am still here!”

Roni's family don't know what happened to him. They think that he is still studying and everything is going well. “I haven't told them because I don't want to shock them” he explains, “My mum is ill and I don't want that something happens to her. She keeps asking me when I'll go back to India, and I keep telling her 'Soon'. I'm missing my family a lot; I haven't seen them for seven years. I don't want to disappoint them.”

Recently Roni found a new solicitor. In April, she wrote to the Home Office, but has not received any reply. Roni is still waiting. He wants to clear his name, finish his studies and go back to India: “Just let me finish my degree and the next day I'll go back to my country. India is a big country, there are lots of opportunities. I want a manager position in a multinational company, but I need my degree, and I need to go back clean.

“I came here clean, without any allegation [against me], and I want to go back clean. Otherwise I will not have any opportunity in India, or anywhere else.



## Shammi Aktar's story

### *Cheated by the immigration officer into voluntarily returning to Bangladesh*

Shammi, a 34-year-old Bangladeshi woman, arrived in the UK in 2009 to study at Manchuria College, in Manchester, where she obtained a post graduate diploma in management in 2011. She married a fellow countryman and they later had a son.

In 2012 she took the TOEIC English language test and applied for an entrepreneur visa, which was refused without any reason in 2014.

“They didn’t refuse me the visa because of TOEIC, but because they didn’t believe that I was a real businesswoman, although they wouldn’t provide any reason,” she says. “My money was ok, my papers were ok, but they didn’t want to give me the visa. In the appeal hearing they just told me ‘We don’t believe that you are a real businesswoman’ and they didn’t say anything else.”

Shammi was given a chance to submit a fresh application in a different role. She applied for a student visa, which remained pending with the Home Office for a long period before finally being refused in 2015. She found out about the refusal only when her solicitor called the Home Office to ask how the application was proceeding. She was told she had been refused and had to sign in at the Dallas Court immigration reporting centre in Manchester.

There she was handed the refusal letter (based on the allegation of cheating in the TOEIC test). She recalls: “They told me it wasn’t just me. They said: ‘Lots of students, everyone, should go. You have no right to live here.’ I asked what I could do, and the lady officer said: ‘You have no appeal right. If you go back willingly to Bangladesh, then you can re-apply after one year. You have no right to stay. If I detain you, you will be banned from coming back to the UK’.”

***“Since I came back to my country I have been suffering a lot.”***

Shammi argued that she had not cheated in the test and asked why she had to leave the country if she had not committed a crime. The only answer she was given was: “This is the law now, you have to leave the country. This is the system. You can come back after one year.” The officer didn’t explain whether the allegation would be dropped if she returned to Bangladesh.

Shammi “accepted their rule,” as she puts it, and went back to Bangladesh. She didn’t want to settle in the UK, she simply wanted to establish herself educationally and in business, and to create a better future for her and her family in Bangladesh. She was tired, stressed, and in financial trouble; she thought that going to Bangladesh and coming back to the UK after one year was the simplest and quickest solution.

However, her solicitor advised her that if she left the UK she could not come back, while if she remained she could obtain a visa through her son who had been born in the UK. The

law allows parents to obtain a visa in this way but the child must be seven years old, and there was a long time to wait. She thought going to Bangladesh and returning after a year was better.

“I didn’t want to stay in England illegally,” says Shammi. “My son was three-and-a-half years old. I would have had to stay another three-and-a half years illegally. How could I do that? It was a big risk! I thought it would be better for us if I could apply after one year. One year is nothing. I believed the immigration officer and trusted her one hundred per cent.”

One year after her return to Bangladesh, Shammi contacted her solicitor and learned that she could not return. “I didn’t want to stay there illegally” she comments, “but since I came back to my country I have been suffering a lot. I wish I had stayed in the UK illegally. I respected their rules and decisions, but now I feel cheated by the government decision”.

“We came back to Bangladesh to stay with my in-laws,” she says. “When they realised we had no money, they started treating us as a burden because we were three people. Living here is a torture, my mother-in-law hates me because we have no money.” She funded Shammi’s studies and wanted her to remain in the UK and send money back. She thinks there are opportunities in the UK and doesn’t believe Shammi’s account of what happened.

Shammi says that one member of the family is violent and has hit her. She says finding a job is difficult because only people under 30 can access government employment in Bangladesh, and to get a private job you need to bribe or to have an influential reference. She doesn’t work: she spends all the day looking after her in-laws’ household and her own family. Her husband suffers from depression and diabetes. He started a small bike-selling business, but it doesn’t make enough money to enable them to move.

Shammi spent about £40,000 on legal procedures, college fees and other expenses in the UK. She wants to be compensated and wants her name cleared, but she doesn’t have any money to pay for further legal action.

“If had I invested in another country, I would be established by now. I will not suggest to anyone to study in the UK,” she says. The number of Bangladeshi students going to the UK has fallen because “they are treated very badly in the UK.”

## **Waqar H.’s story**

### ***Accused of cheating at the TOEIC test after studying in British schools since he was a child***

Waqar, a 28-year-old man, did all his studies under the British curriculum in Bangladesh, his native country. His family spent a fortune to allow him to attend first a Canadian primary school, then a private, well known, British school from the secondary to the A levels.

He is an only child and his parents wanted a good academic qualification for him, with his higher education to be completed in the UK.

So in 2010 Waqar moved to London under the sponsorship of Whitechapel College, where he obtained a Higher National Diploma in technical subjects. He needed a third year of education to get a bachelor's degree, after which he planned to return to Bangladesh with a good CV and start a successful career.

In 2013 he took the TOEIC English language test and enrolled on a computer science course at Glyndwr University. The university asked him to take an internal English test, which, not surprisingly, since his whole education had been in English, he passed with high scores. A successful student, he also worked as a part-time maths and computer science teacher to A level and GCSE students.

In 2014 he heard that some students were in trouble because of allegations of cheating in TOEIC tests and, as an active member of the National Union of Students for his University Computer Science Department, was defending them against the Home Office's allegations. It never occurred to him that he would experience something similar.

"I didn't expect to have any problem, because I studied in English schools in Bangladesh, received my diploma in the UK, and was accepted at the university on the basis of an internal English exam because the university's policy was not to accept TOEIC certificates."

"One day I went to the university to ask for information about the last semester of my bachelor course and I was told that I had been withdrawn. It was a shock! ... I didn't have any reason to cheat at the TOEIC test - that's a very simple test."

On 9 September 2014, Waqar received a letter from the university notifying him that he had been withdrawn, and on 4 October a Home Office letter notified him that his visa had been cancelled because of the allegation of cheating in the TOEIC test. He was served with section 10 removal notice [under section 10 of the Immigration and Asylum Act 1999] and out of country appeal rights.

Since then, he has been fighting to prove his innocence, while regularly reporting to Becket House reporting centre and struggling to survive with no money and no right to remain in the UK.

***"The proceedings are complex...you can't get help anywhere."***

He couldn't afford to pay a solicitor and his experience is an example of how difficult it is for an individual to defend himself through legal procedures.

His first action was to contest the Home Office decision through pre-action protocol - "This is a letter, normally written by a solicitor, that states the Home Office decision was wrong and the client didn't cheat," he explains. "I did with some advice

from a lawyer who is a friend of my uncle and his firm represented me in the pre-action. It wasn't very forceful (because no practising barrister was involved) and it was refused.

"Then I applied for judicial review [where a court considers the lawfulness of a decision taken by the government department or official] with no better results. This is a very difficult procedure and you need a good solicitor, but I applied by myself as my uncle's friend's firm was not a solicitors firm. Many students didn't even apply for it, because they had no money and didn't understand the procedure. We didn't receive good guidance from our universities. Glyndwr University told me to go back to Bangladesh and finish my course there. I asked them to write a letter stating that I could complete the course at distance, but they refused. I didn't trust that they would allow me to do so, because they had already taken me out of the course without even telling me before or scrutinising me."

Waqar lost the judicial review because he was required to send additional documents within seven days. However, the letter notifying him of this was sent by second-class post and was delivered when the deadline had already passed. He sent the documents anyway, but the review was refused because he was "out of time."

He appealed against the decision to the Upper Tribunal, but this appeal was also refused because the Tribunal confirmed that he was "out of time."

"I should have taken other steps" Waqar says, "Now I understand that I should have challenged the point of being out of time and tell the court, 'No, I wasn't out of time. I was late because I received the letter late' but I couldn't do that because I didn't have enough guidance and I didn't know about legal aid at that time. I'm a student, I came to study computer science. The court proceedings are so complex, and you can't get help anywhere."

Despite the difficulties, Waqar continued in his legal battle and went to the Court of Appeal, where he was eligible for legal support through the Royal Court of Justice Bureau. But he didn't get it because the Court didn't allow him enough time for each stage of his process for the pro bono legal support to take him on, as they require a minimum of six weeks. Once again, Waqar had to do all the procedure by himself. His application was not complete nor well prepared, the court was supposed to give him a final deadline to present further arguments, but they didn't. While Waqar was preparing new documents to submit to the court, he received a letter notifying him that his case had been dismissed.

In 2018 he was finally able to get legal aid after repetitive failures and found a solicitor. He appealed again to the Court of Appeal and is waiting for a hearing.

"You need to be a lawyer to come to this country," he says. "International students have no rights here. The UK is good in marketing its education system. They attract international students, but then they destroy their lives."

"The education system in other countries is less approachable but is much better than in the UK because there is protection for international students. Here I went to the university to ask when my classes would take place, and I was answered: 'Get out of the country!' It was such a shock. I got mad in that period, I couldn't sleep. Every night I thought the

Home Office officers might be just outside my door, I was always afraid of finishing in a detention centre.

“Since 2015 I have suffered from mental health problems, and I’m still in therapy. I still cannot sleep, during the night I hit myself against the wall and I wake up because I’m hurting myself. Many times I thought to commit suicide, but I cannot because of my family, I’m an only child.”

Since the allegation, Waqar has lived with different uncles and aunts in London, moving from one place to another, and borrowing money. He is determined to remain in the UK until he obtains his bachelor degree, but even clearing his name of the cheating allegation won’t be enough: “I know some students who won the appeal, but they weren’t able to complete their education because the universities didn’t accept them back. They weren’t given any clarification letter to show their innocence, and had only a 60-day discretionary leave to make a new visa application. In these conditions, no university will accept us. We need to show that we have enough money in our bank accounts, but that’s impossible after years of increasing debts to survive and paying all the legal expenses.

“We need to be put back where we were taken from four years ago. The Home Office, that previously forced the universities to withdraw us, should now give universities clear instructions to take us back. We should be allowed to re-sit the English test and, once having passed it and having had our names cleared, receive a clarification letter and a six-month/one-year discretionary leave to complete our education.

“At present the Home Office is spending a lot of public money to contest our appeals that could be better spent in public services; while even students who won the appeal are unable to go back to their studies. We want our education. You can take everything from us but not our education. I came here to study and I’m not going anywhere till I obtain my certificate.”

In 2014, when he was accused of the allegation of cheating, Waqar was only two modules away from completing his education. He should have been back in Bangladesh in 2015, and starting a good career there. But he is still here, waiting to get his degree.

## Legal background

*By Sonali Naik QC, Barrister, & Patrick Lewis, Barrister - Garden Court Chambers*

Foreign students must pass a test of proficiency in written and spoken English. One of the businesses conducting tests was Educational Testing Service (ETS), which provided the Test of English for International Communication (TOEIC). In the spoken English part of the exam candidates read a text, recordings of which were sent to an ETS assessor for marking.

In February 2014 a BBC *Panorama* programme reported that some staff employed by ETS had engaged in widespread fraud and that cheating had occurred at a number of centres, in particular by the use of proxies taking the spoken English part of the test. In response to the allegation, the Home office asked ETS to use voice recognition software on recordings to try to identify cases in which it appeared that the same person had spoken in multiple tests and could thus be assumed to be a professional proxy.

Using ETS findings, in 2014 and 2015 alone the Home Secretary cancelled or refused the visas of over 40,000 people who were said to have obtained leave to remain on the basis of cheating in the TOEIC test. This meant that students mid-course had their leave to remain terminated and were required to leave the UK immediately. Some were detained and removed. The National Union of Students estimates that more than 56,000 individuals were affected.

It is the Home Office's responsibility to prove such an allegation but until relatively recently the actual voice recordings on which the allegation was based were not disclosed to the individual. In a series of appeals the courts found that the evidence relied on by the Home Office to make the accusation that someone had used a proxy was only "just" sufficient to found such a claim. It is of note that even the Home Office has accepted that much of the evidence on which it relied "in the early stages" to make many thousands of allegations was "shaky" and that its initial approach was "stumbling".

It is then open to the individual to produce evidence to counter the allegation of cheating against them. Given the difficulty of obtaining the actual voice recordings, such evidence would include the quality of the individual's English, whether they were of good character, and whether they had any incentive to cheat.

Thereafter, it is for the Home Office to respond to that evidence.

In a case in which dishonesty was alleged, Mr Justice Green held:

"At the end of the day the SSHD [Secretary of State for the Home Department] bears the burden of proof. This is a proposition which is uncontroversial and has been confirmed on many occasions ... Where the appellant's evidence is not met, a Tribunal should be slow indeed to find dishonesty, particularly without hearing evidence and submissions on the point from the Appellant and/or the SSHD. It must be recorded that a finding of dishonesty can have catastrophic consequences for the applicant in social and economic terms. It is not to be found lightly."

The problem for the vast majority of individuals accused of cheating by having used a proxy is that they were served with a removal notice (instruction to leave the country) under Section 10 of the Immigration and Asylum Act 1999. This gave no right of an in-country right of appeal to challenge the decision even though the accusation was so serious.

There are other groups of students who had slightly different situations with regard to appeal rights and how they found out about the allegations against them. For example, some students were informed by their universities that they had been withdrawn from study; some who were out of the UK on holiday were informed and detained at the airport; some found out when they applied for an entrepreneur visa, or married a British Citizen and were denied visas. Later, as legislation was passed (in the Immigration Act 2014) to make it more difficult for migrants to challenge Home Office decisions, those accused had no right to appeal either in- or out-of-country.

Those served with Removal Notices were not given disclosure of the evidence on which the allegation was made and were only granted an out-of-country right of appeal (that is, an appeal that can only be made when the person appealing has been removed from the UK) but afforded no in-country remedy — that is, an appeal registered in the UK which the individual can attend and give evidence in person.

Individuals were left with no alternative but to try to challenge this decision through judicial review, a process by which decisions of government departments may be subjected to review by the courts. However, this is allowed only where there is no 'alternative remedy'. Many of the students were not entitled to legal aid and had to pay privately to bring such challenges to try and clear their names, without at that time access to the evidence said to be held against them. They also risked having to pay the Home Office's costs if they lost.

The Home Office argued that the existence of an out-of-country right of appeal was an "alternative remedy" and that therefore applications for judicial review should be dismissed. The courts consistently ruled that the out-of-country procedure was indeed an adequate alternative remedy, as a result of which judicial reviews were dismissed almost automatically.

This was then considered once again by the Court of Appeal in a case called *Ahsan v The Secretary of State for the Home Office*, when the court held that, because of the nature of the allegations, the necessity of oral evidence to defend them and the fact that adequate facilities did not exist for evidence to be given by someone outside of the country an out-of-country appeal was not an adequate alternative remedy. Therefore people should be allowed to bring judicial review claims in the UK. It concluded that in-country tribunal appeals remain the more appropriate place for resolving deception cases.

Students accused of fraud routinely had their appeal rights removed simply by a Home Office assertion that their claim was 'clearly unfounded'. However, the Court of Appeal stated that where this was asserted a human rights claim the Home Secretary must justify

why there is no prospect that a person's oral evidence may rebut the allegation of deception.

In addition, the Court of Appeal held that for those who have brought out-of-country appeals and won, "*the Secretary of State ought to take whatever steps were possible to restore successful out-of-country appellants to the position that they would have been in but for the impugned decision.*" That includes the grant of Entry Clearance to allow them to return to the UK. In practice this has not in fact allowed such students to return to resume their courses. Aside from the damage to their reputation they have lost a huge amount: course fees which they may never recover, incurring high legal costs (some of which they may never recover), huge delay of years whilst their cases were being resolved during which time they were not allowed to work or study but still needed money to survive here, and no prospect so far of any compensation for the losses suffered, let alone recognition of the impact on them.

The Home Secretary has reluctantly begun to grant individuals in-country right of appeal, but this has not been granted universally. Nor has any action been taken to address the many innocent individuals who were removed or refused entry when they were in fact entirely innocent. As Mr Justice Green commented, allegations of dishonesty have had "catastrophic consequences" for many of those accused. The absence of proper independent review has led to individuals of good character having their reputations and livelihoods ruined without any remedy having been made available to them.

This has been unquestionably another example of the hostile environment that has been created entirely unnecessarily for individuals who were in the UK lawfully and making a significant contribution to the UK economy and cultural life.



## **Concluding remarks**

As a charity that works across the full spectrum of migration issues, we are used to witnessing and documenting the consequences of both punitive public policy and divisive public debate.

Still, the cases of the wrongly-accused students stand out. During the process of compiling these reports we have heard too many stories of how people who came to this country to learn, to contribute and to fulfil a dream found their hopes shattered, their reputations shattered and their lives overturned through no fault of their own. Worse, we know that the cross-section of stories we have heard are reflective of thousands more whose careers, studies, housing, mental health and basic sense of dignity have been dealt a blow by this rash, ill-considered act of collective punishment.

The scandalous treatment of the “Windrush generation” shone a light into the corners of the immigration system, where successive governments’ desire to be seen as ‘tough’ has led to an out-of-control, unaccountable system that is blind to the human impact of its decision-making. And the outpouring of sympathy over Windrush shows that most British people do want the management of migration to be fair, decent and humane.

But this moment means little if those in power do not engage in genuine self-reflection, and learn from past mistakes. The cases of these students would be a simple place to start – the Home Office has the power to take a serious step towards redressing a burning injustice, and putting the lives of people like Roni and Naveed back on track.

Our recommendations are outlined in full below. But the main ask is clear: for those who were caught out by a callous set of blanket accusations to be permitted to sit a new test in secure conditions, and resume their studies. The clock cannot be turned back – but it can at least be partially reset.

There is a unique opportunity here to demonstrate our common commitment to a basic sense of fair play, and to the principles and values of our justice system. The students we have spoken to during the process of compiling this report only want to get on with their lives.

This four-year failure must end now: Give the students their future back.

## **Recommendations**

Migrant Voices' recommendations developed together with the students:

### **Immediate actions for the students and other victims whether Tier4 students, Tier1 (entrepreneur) or Tier2 (skilled migrants) who are still residing in the UK:**

- 1- Offer academic scrutiny through a new English language test and/or interview to establish the individual's proficiency in English and to re-instate their former immigration status
- 2- Clear students' names and remove the criminal allegation made against them
- 3- Put an immediate stop to detention and deportation until a decision is made and a process is implemented
- 4- Issue clear instructions to universities to re-instate/re-admit students and allow them to complete their studies without the need to re-submit financial and other evidence for a new visa

### **Future actions to prevent a similar situation:**

- 1- Give the universities power to decide on student admissions including the type or accredited/recognised English test used; the government should not be involved in this process
- 2- Universities should develop their own processes, including using Skype and/or other technology, to interview students before leaving their countries to ascertain level of English in lieu of English Language testing
- 3- Issue a students' protective rights Bill to protect the rights of students in the event of a university shutting down or of a test centre failing or shutting down
- 4- Change students visa sponsorship so that students get a visa to the UK to study for a particular university, but can transfer that student visa if they need to/wish to move to another university (and are accepted there)
- 5- Remove students from the cap on net migration

### **For the students who were already deported or have left the UK:**

- 1- The opportunity to re-sit the test in their country and for their names to be removed from the allegation list so they can get on with their lives, go back to study, take up employment and regain their dignity
- 2- Allow the students who were deported or left the UK the option to return to the UK to complete their studies/work/entrepreneurial activity following the above process



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