

Supplementary Written Evidence submitted by Migrant Voice - 21.08.2019

English language tests for overseas students inquiry

Migrant Voice is a migrant-led organisation working with migrants from all around the world with all kinds of status. In 2017, we took up the campaign for justice for students affected by the Home Office response to the TOEIC scandal and we have since been working closely with affected students and policymakers to address this issue.

Following the call for evidence from the Public Accounts Committee in June 2019, Migrant Voice made [this submission](#). Shortly afterwards (on 10 July 2019), the Committee held an oral hearing, taking evidence from Sir Philip Rutnam, Permanent Secretary, Home Office, Shona Dunn, Second Permanent Secretary, Home Office, and Mark Thomson, Director General UK Visas and Immigration, Home Office.

Watching that hearing, we became aware that all three witnesses made significant errors and misrepresentations in their testimony, and presented information inconsistent with previous government evidence. The result was to create a biased narrative in favour of the Home Office. We do not know whether these were deliberate or not, but we believe they should not be left unchallenged.

These errors, misrepresentations and inconsistencies are detailed below.

1. Chronology of Home Office actions in 2014

See Qs 45-48, Q64: The witnesses said at various times in their answers to these questions that a) the process to identify those who cheated took several months, b) the first actions the Home Office took against students were in June 2014, and c) the visit to ETS took place “around the time that they were using the data to do the data matching”.

In this narrative, the Home Office took its time to gather all the evidence before taking action against anyone. But this narrative contains several fundamental errors. According to the [official written statement by Home Office official Rebecca Collings \(p.7, paras 27-31\)](#) of Collings’ statement in that link), the Home Office received the first spreadsheets from Educational Testing Service (ETS) showing tests where proxies were supposedly used on 24 and 28 March 2014, just a few weeks after the Panorama programme was broadcast. And Collings’ testimony strongly implies the Department began taking action immediately after receiving those spreadsheets, even suggesting that the Home Office had shown caution in waiting even that long:

“I believe we were right to have waited until the week commencing 24 March, the point at which the Home Office received the results of the tests that had been analysed, to start to take action on individual cases because we now had evidence to take action we could be confident in.”

Shona Dunn’s statement that no actions were taken until June is inconsistent with this official testimony.

Also, we know from [Home Office evidence submitted on 6 May 2016 \(Q45\)](#) that the trip to ETS in the US by the Home Office delegation took place in the first week of June 2014. By the end of March, ETS had already analysed 10,000 tests (see Collings’ statement referenced above). By 24 June, ETS had analysed at least 48,000 tests (out of a total of 58,000), according to [James Brokenshire’s statement that day](#). We can therefore deduce that by the first week of June when Home Office officials visited ETS to look at what they were doing, most of the data matching had already been

done, a number of spreadsheets had already been sent to the Home Office, and hundreds, if not thousands, of students had had action taken against them on that basis.

Set against this evidence, the claim that the process of identifying students and taking action took several months to get going is called into question. We are left wondering when exactly the first actions were taken against students whose tests had been invalidated, and how many students had already had action taken against them by the time of the Home Office visit to ETS in early June 2014.

2. Criminal investigation into ETS

[See Q50](#): Shona Dunn said that in 2014, “I don’t think there was a question about whether there was the potential for criminal action against ETS in America”.

This does not tally with [evidence submitted by the Home Office on 21 June 2016](#) (Q80), where it is stated that a criminal investigation was opened on 7 May 2014 into both ETS (the “ETS in America” to which Dunn refers) and ETS Global BV (who administered the test in the UK).

3. Expert advice

[See Qs 57, 58, 62](#): Mark Thomson and Sir Philip Rutnam both admitted that the Home Office had made an error by not commissioning expert advice on the reliability of the evidence from ETS before 2016. As is widely known, that expert advice came in the form of a report by Sir Peter French.

However, the All-Party Parliamentary Group on TOEIC was told by Peter French himself during their investigation that he, along with a number of other independent experts, had been invited to a confidential meeting at the Home Office in 2014 (see [the APPG report](#), pp.21-22). At that meeting they were asked to assess the evidence sent by ETS and advise the government as to whether it needed to be “shored up” or “redone”. They said they didn’t have enough information to assess the reliability and put forward a raft of questions for the Home Office. According to Peter French, the experts at that meeting never received any answers and the next contact Peter French had with the government on the matter was in 2016.

The conclusion of the APPG on this point is summed up as: “Why is the Home Office refusing to admit that they met with experts before 2016, unless it is to disguise the fact that they knew as early as August 2014 that the reliability of the evidence was in question?”

The inconsistencies between the testimony of Home Office officials and Sir Peter French leave us with questions regarding whether the Home Office sought answers to the questions posed by the experts in the August 2014 meeting and why the Home Office decided not to officially commission advice from any of those experts until 2016, despite their questioning of the evidence 18 months earlier.

4. Other types of fraud

[Q67](#): Shona Dunn told the Committee that the only types of fraud for which the Home Office has evidence are proxies and reading out of multiple-choice answers.

However, we have seen one First Tier Tribunal ruling – and we are aware of others – that contradicts this statement through quotes from the Home Office’s own Operation Façade documents. Those

quotes reveal details of a police investigation in 2014-15 that exposed evidence of a secret room and remote software in one testing centre – types of fraud clearly distinct from those mentioned by Shone Dunn. Significantly, these types of fraud can easily explain how innocent and fraudulent students were sitting their test at the same time in the same place, without the innocent students realising anything was amiss. The “secret room” eventuality in particular also explains how so many innocent students are receiving voice files that do not feature their voices, as it is likely that everyone’s test from a particular session would be replaced with proxy versions, for the ease of those administering the fraud.

This inconsistency leads us to question why the Home Office continues to insist that there is no evidence for other types of fraud than those shown in Panorama when at least one police report (cited in an official Home Office document) suggests that this is untrue.

5. Questionable students

[Qs 106, 112](#): Mark Thomson and Sir Philip Rutnam told the Committee that the students in the “questionable” group had the chance to sit another test and that no removal actions were taken against them until they had had that chance.

Information gathered by the APPG on TOEIC and laid out in [their report](#) (pp. 23-24) suggests this claim – one repeated regularly by the Home Office since 2014 and which has been used to imply a significant degree of fairness in the government’s response – may be untrue.

Joy Elliott-Bowman, who was International Students staff member at the NUS in 2014 and a key liaison between the Home Office and international students affected by the TOEIC issue, told the APPG that when the Home Office sent lists of students accused of cheating to FE and HE institutions across the UK in June 2014, those lists did not distinguish between “invalid” and “questionable” students. It was heavily implied that those institutions should withdraw the students on the list, which most dutifully did, likely not ever knowing that there were two “distinct” categories. As soon as any student was withdrawn, thus losing their sponsor, they became liable to removal from the UK, unless they were able to quickly find a new institution to sponsor them – unlikely given the serious reason (deception) for which they had been withdrawn from their previous institution. Elliott-Bowman told the APPG that she personally knew many “questionable” students who had action taken against them – sometimes removal action – without having the chance to sit a new test, wholly undermining the government’s repeated claim on this matter.

This inconsistency leads us to question whether the distinction between the “questionable” and “invalid” students was made clear on the lists sent to FE and HE institutions in June 2014, and how many “questionable” students later had action taken against them because they had lost their sponsor. It also leads us to question whether the original lists sent to institutions in June 2014 and the guidance presented to those institutions for how to deal with those students still exist and can be viewed.