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Filed on behalf of the Respondent
Witness: Peter Millington
1st Statement
Date: 23 June 2014

IN THE UPPER TRIBUNAL

JR/6299/2014

IMMIGRATION AND ASYLUM CHAMBER

IN THE MATTER OF AN APPLICATION FOR PERMISSION FOR JUDICIAL
REVIEW

B E T W E E N:

THE QUEEN on the application of
Zaheer Hussain MOHAMMED

Applicant

-v-

SECRETARY OF STATE
FOR THE HOME DEPARTMENT

Respondent

WITNESS STATEMENT OF
PETER MILLINGTON

I, Peter Millington, of the Home Office will say as follows:

1. I am an Assistant Director and I have been employed by the Home Office since 2003, working in a variety of roles within the organisation in the UK. I am currently responsible for the network of Sponsor Compliance Officers in the Midlands and North of the UK and in this role I coordinate compliance visits to Sponsors. Prior to this role I was responsible for the unit that processed In-Country Tier 4 student applications, undertaking this role for 4 years.

2. I am duly authorised to make this witness statement on behalf of the Defendant in these proceedings. The purpose of my evidence is to provide the Court/Tribunal with an understanding of:
 - i) the work of Educational Testing Service (ETS), a test provider operating under a licence granted by the Home Office; and
 - ii) the process and procedure it has used to assist the Home Office with her actions in response to widespread deception used by applicants applying for leave to enter, or remain in, the United Kingdom.
3. This witness statement should be read in conjunction with the witness statement of Rebecca Collings, who deals with the relationship between the Defendant and ETS as well as the action taken by the Defendant in response to information provided by ETS. I do not intend to touch on those points in any detail.
4. The contents of this statement are derived from Home Office records and minutes, save as otherwise appears, and are true to the best of my knowledge and belief.

Background

5. In February 2014 BBC's Panorama broadcast a television programme which revealed widespread abuse within UK test centres, administering the Test of English and International Communication (TOEIC), which is used for other purposes including establishing sufficient ability in the English language to study at a education institution in the UK. The abuse included (i) the use of 'proxies' to undertake speaking and listening tests on behalf of the candidates and (ii) the provision of correct answers for those sitting written tests.
6. Consequently the Home Office requested that ETS investigate the validity of results across UK testing centres at which its tests were taken. Following comprehensive investigations ETS provided the Home Office with lists of

candidates whose test results show 'substantial evidence of invalidity'. The Home Office was provided with the background to the process used by ETS to reach that conclusion.

7. In order to gain the clearest understanding of the detail of that process, at the beginning of June 2014 I attended ETS's offices in Ewing, New Jersey, USA as part of a delegation headed by the Director of In-country Migration Casework in the Home Office. The delegation also included a lawyer from the Treasury Solicitor's Department and an analyst from the Home Office Immigration Enforcement function.
8. During the course of our visit to ETS, representatives of ETS explained and demonstrated the background to the approach/process they used to identify invalid tests.

Educational Testing Services (ETS)

9. ETS, established in the USA in 1947, is the world's largest private nonprofit educational testing and assessment organisation. The company develops, administers and scores achievement in occupational and admissions tests globally. ETS administers approximately 50 million tests annually in 25,000 test centres in 192 countries.
10. ETS administers paper-based, computer-based and internet-based tests and has developed a scoring system which allows approximately 64,000 tests to be scored per day. It is also a world leader in respect of fraud prevention and detection.
11. ETS is contracted to perform testing services by the College Board, a private, nonprofit membership association of universities, colleges, school districts, and secondary schools within the USA. The most popular of the College Board's tests is the SAT, a college admissions test. The SAT is taken by more than 3 million students annually. ETS also develops and administers the College Board's Preliminary SAT/National Merit Scholarship Qualifying

Test (PSAT/NMSQT) and the Advanced Placement program, which is widely used in US high schools for advanced course credit.

12. ETS also administers the Test of English as a Foreign Language (TOEFL), the most widely respected English-language test in the world, recognised by more than 9,000 colleges, universities and agencies in more than 130 countries, including the UK, the US, Australia and Canada.

The Test of English for International Communication (TOEIC)

13. During my visit, a number of senior and expert representatives of ETS explained to my colleagues and me the detail of the operating model for administering the TOEIC. In summary what they told me was that the TOEIC tests listening, reading, speaking and writing. The listening and reading components of the test are paper based and machine scored. The speaking and writing elements are computer delivered and human scored.
14. It was explained to me that the test is used by a broad range of customers around the world and that 14,000 organisations use the test, including 7 of the 10 largest companies in the world. The test is administered in around 150 countries and there are 7 million tests taken annually.
15. The main use of TOEIC is to establish the suitability of an individual to operate in the workplace. It is often administered as part of a recruitment process, an educational programme or taken by individuals to help them secure a job or enhance their career. As discussed in Rebecca Collings' witness statement, between April 2011 and March 2014 the TOEIC was also an approved English language test for the purposes of applications for leave to enter, or remain in, the United Kingdom.

A Decentralised Process

16. In relation to TOEIC, ETS operates a decentralised process in which they have an ETS Preferred Network of local third party distributors around the world ("the EPN") which provide a localised service for clients. In this model the EPN is responsible for the administrative tasks such as test registration

and administration, customer service and recruitment and certification of test centres to administer the test on behalf of ETS. It was one of these EPN offices in the UK that operated the tests that were the subject of the Panorama programme.

17. Under this model ETS, centrally in the USA, has responsibility for designing and developing the tests and developing new products. Whilst the EPN offices administer tests, the responsibility for marking the results and analysing the overall statistics and management information rests with ETS. Having produced a test score, ETS will pass the results back to the relevant EPN office for them to report back to the test taker.

The Marking Process

18. In order to avoid the impact of human subjectivity (e.g. a marker having regard to previous performance) ETS wanted to construct processes which eliminated factors such as knowledge of the test taker or how they had performed on other parts of the test as a driver of subjectivity. To achieve this goal they have developed an approach to human marking based on 'blind scoring'. This ensures as far as possible that the marker does not know the identity of the test taker or how they have performed on the remainder of the test or previous tests.
19. In practice this means that after a test is administered in the UK, a test taker's spoken and written responses to each of the individual questions are divided into individual electronic files and transmitted to ETS and stored securely on servers in its data centre. These servers are accessible only by authorised personnel and the files are typically stored for 999 days. ETS has advised that file manipulation, corruption or misapplication has not been an issue once files are received in the USA. These individual files are then randomly and anonymously assigned to markers. That means multiple markers will be involved in the marking of each test. This process is done through an Online Scoring Network (OSN), which is also hosted on ETS's servers located in its data centre, and markers access the OSN remotely from locations across the USA.

20. ETS have advised that they have a robust process for recruiting and training markers and that each marker is required to follow strict scoring guides. ETS also has processes in place to allow experienced supervisors ("scoring leaders") oversight of the performance and quality of work of the remote markers. In addition, each day remote markers are required to take a calibration test (where their marking is checked against a scoring leader) before they can mark responses. Discrepancies in marking between initial markers will lead to intervention by a scoring leader.
21. As each test taker's test will be marked by multiple markers, ETS has a separate Scoring Key Management system which merges each of the individual scores into an overall score for a test taker.

Tackling Abuse

22. ETS has sought to identify and address abusive behaviour where it exists amongst test takers. Where they believe they have identified suspect behaviour on the part of the test taker they will cancel the test score. Examples of the sorts of behaviour that would lead to a score being cancelled would include:
 - i) where there has been a repeat test however the voice of the test taker is different from the previous test;
 - ii) the voice of the test taker changes from one question to the next (this would suggest another person has been substituted during the test);
 - iii) the use of imposters to sit tests in place of the test taker;
 - iv) the recordings revealing a voice other than the test taker giving them assistance; or
 - v) an answer is unusually similar to another test taker's answer.
23. Markers and supervisors are encouraged (through training and day to day management messages) to be vigilant in respect of these potentially abusive behaviours. However the deliberately fractured nature of the marking process means that, to a large degree, abuse of this sort would only be uncovered if

one marker was able to recognise patterns across items that they were marking despite the identity of individual test takers not being available to them.

24. The one area where a more structured approach is possible to detect abuse, is where repeat tests are taken by an individual and there is a large score difference between the scores achieved by that individual (the threshold was + or – 30 points). In these cases analysts from ETS's Office of Testing Integrity (OTI) would listen to and review the two voice samples to establish whether the tests were taken by the same person. The practices used by these analysts were developed around 7 years ago with the input of a former-FBI officer who acted on a consultancy basis to build their skills in analysing speech recordings.
25. Where abuse was not connected to repeat tests, the identification of individual or organised abuse would rely on them happening sufficiently frequently with the same markers to cause them to flag the issue to their supervisors. ETS were aware of the limitations of these approaches and therefore had, prior to the revelations in the Panorama programme, embarked on a programme to test and develop biometric voice recognition as a more comprehensive and structured way of identifying abuse.

Biometric Voice Recognition

26. During my visit to ETS I attended a presentation from ETS's technical expert who has been responsible for developing and testing the voice biometric technology that ETS are now using in analysing the TOEIC test data. The technology was initially developed for ETS's TOEFL programme and the intention had been to further establish the technology within the TOEFL system before applying it to the TOEIC system. However, following the revelations in the Panorama programme, ETS decided to deploy it as an analytical tool to retrospectively identify levels of abuse across EPN test centres in the UK.

27. It was explained to me that the use of this technology is well developed in other sectors. For example voice biometric technology is already used in the financial sector as a security measure (for example as part of telephone banking arrangements). ETS were therefore keen to explore its potential application to the English testing context. The basic technology extracts biometric features from an individual's speech to generate a voiceprint (the voice equivalent of a fingerprint). This voiceprint can then be run against samples to establish whether the sample is likely a recording of the same person who had generated the voice print or a different person.
28. ETS started with a number of key questions before they could be confident that the technology was applicable to their field. These included:
- i) whether they would need multiple models of the technology for particular regions (due to the variety of native first languages spoken by their clients);
 - ii) whether the type of speech samples generated during a test were sufficiently long and of a high enough quality to allow for biometric analysis and comparisons;
 - iii) could they develop the statistical guidelines, process and analysis of results to set themselves the thresholds for determining similarities or differences that did not result in large numbers of false negatives or positives?
29. In 2011 ETS conducted a proof of concept pilot focused on identifying a vendor who could provide the biometric technology required. They secured the software from a vendor who had already successfully operated this technology in other sectors. The procurement of the technology remains subject to a confidentiality agreement and it was not possible for me to ascertain any further details. Nonetheless, ETS assured me that the underlying technology was well established and tested.
30. In the process of testing the technology, ETS developed a statistical model whereby voice prints were compared against all other samples in the "batch"

being analysed and each comparison produced a numeric value that represents the amount of match between a sample and a voice print. In short, there is an increasing probability that samples match (i.e. the samples are from the same person) as the value increases. Conversely, there is a decreasing probability that the samples match as the value decreases.

31. Through 2012/13 ETS tested this technology with representative data which deliberately included 285 pairs of repeat test takers where it was already known they were recordings of the same person. Data from each of these test takers were also compared to every other test taker, resulting in over 70,000 pairings of non-matching comparisons. ETS wanted to know whether the technology could identify occasions where, within one test centre, there was evidence of multiple tests being taken by the same person (or people who had already been identified as imposters). The results of the pilot were that matching samples produced values that were higher than values from the non-matching samples the majority of the time, with a less than 2% error rate. ETS also tested whether the technology was effective in cases where repeat tests were being taken by two different people (although that form of abuse is not relevant to the current litigation).
32. The technology is used to "flag" a comparison where the result is suspicious (i.e. where the samples match despite being taken from 2 different test takers or where the samples do not match despite being from the same test taker). ETS accepted that voice biometric technology is currently imperfect and so their challenge was in establishing the appropriate probability thresholds for a comparison to be flagged as suspicious. They wished to strike the desired balance between providing confidence in the accuracy of the comparison and avoiding "false positives" (i.e. samples incorrectly flagged as a match) but also limiting the number of "false negatives" (i.e. samples that are in fact matches but are not flagged due to the thresholds being set too high).
33. ETS considered that too many false positives would fatally undermine the integrity of the voice biometric system and decided to set conservative

thresholds (i.e. there is high probability of irregularity). As a result, the probability of false positives decreased.

34. Because of the successful trial of the technology in TOEFL cases, ETS felt this would be an effective measure to deploy retrospectively to provide an analysis of previous UK TOEIC test results in light of the Panorama programme and the request from the Home Office for information.

Application of the Voice Biometrics Technology in the Current Cases

35. ETS's Office of Testing Integrity (OTI) was responsible for applying its voice recognition technology retrospectively to tests undertaken at UK testing centres. OTI has a staff of 60 and it oversees both paper- and online-based security operations with responsibility for maintaining the integrity of their testing around the world. It is important to note that OTI had not had day to day responsibility for the integrity of the TOEIC tests administered on ETS's behalf in the UK. However, given the seriousness of the issues raised by the Panorama programme and the urgency of the Home Office request, ETS immediately deployed much of the OTI's resources and experience to the issue.
36. Given that ETS had not originally planned to roll out its voice biometric technology on TOEIC at that point, or to use it as a retrospective fraud identification tool, a number of logistical measures had to be taken. The obvious source of voice samples for comparison were the electronic files containing individual spoken responses provided at the time of the test in the UK (see §19) The OTI were provided with electronic files and for each test taken identified the 6 audio files which were most appropriate for comparison. These would usually be:
 - i) the largest/longest audio files;
 - ii) those providing the clearest responses; or
 - iii) those where all test takers were required to read a set text and therefore comparison would be more straight forward.

37. The electronic files generated at the testing stage required a two step audio conversion process (from .ogg to .wav to .spx) in order to be processed through the voice biometric software. The OTI was responsible for the conversion process to ensure consistency.

38. The Home Office identified UK testing centres that were considered to be "at risk" of incidents such as those shown on the Panorama programme. ETS prioritised those centres for analysis. ETS considered that the best way to test for "imposters" was to look at test centres individually as it was more likely that an imposter would sit multiple tests at one test centre. Tests from a test centre were "batched" into groups of 300-400 test takers. These batches could spread across one day of testing or multiple testing days, depending on the size of the centre. These audio files were then run through the voice biometrics engine. Each batch would take approximately 2 hours to process. The engine would compare each test to all other tests in that batch and flag all suspicious results (those that were a "match") in line with the probability thresholds discussed above. The output would be a list of flagged cases ranked in order of the most likely match through to least likely.

Further Human Verification of "Flagged" Matches

39. The OTI explained that they were determined to ensure that the Home Office was provided with information which was as accurate as possible. They acknowledged that the technology they used was imperfect and that samples could be incorrectly flagged as matches (i.e. false positives). This could occur due to noises in the background of a recording (e.g. an air conditioning system) or the detection of another voice in the background which matches another test taker (although ETS notes that test takers should not be sitting so close to one another that they can overhear each other's responses).

40. In order to avoid the occurrence of false positives, the OTI subjected each flagged match to a further human verification process. The scale of that task, and the need to provide results to the Home Office quickly, required OTI to

draft in additional staff from elsewhere within ETS. Those staff received mandatory training in voice recognition analysis, and were initially mentored by experienced OTI analysts. All of the new staff's work was peer reviewed by an experienced analyst until a level of confidence was reached that they were capable of carrying out the work on their own. It is important to note that a number of new staff were either re-deployed or chose not continue because they did not have the necessary aptitude for the task.

41. The OTI proceeded with the analysis on the basis that each flagged comparison would be verified by two analysts working entirely separately. Each analyst would listen to samples associated with two cases where the voice biometric engine concluded there was a match. Having listened to the samples they would confirm whether, in their opinion, it was the same or a different person speaking in those samples. They would enter their opinion on each match on a spreadsheet (if they considered the samples to be a match then they would enter "SAME" on the spreadsheet). Only where both analysts independently concluded that samples were of the same person would that case be treated as a match. OTI ensured that at least one analyst verifying each flagged match was an experienced OTI analyst.
42. My colleagues and I spent time with a senior and experienced analyst being taken through the human verification process. He played us a number of audio files that had been flagged as a match by the voice biometric technology. Over the course of the demonstration we heard samples which we concluded were the same person speaking although the samples were supposed to be from two different test takers. It was very clear to me, from the examples I heard, that those samples were of the same person speaking. I was able to compare tone, accent and the distinctive and instinctive expressions used to fill hesitations in speech.
43. During the course of the demonstration we also heard voice samples that were not verified matches. In these cases it was straight forward to recognise differences between the test takers. My colleagues and I were confident that two independent analysts would be able to effectively identify matches or

false positives. We were advised that in numerous cases multiple "matches" listed on the spreadsheets would be linked to the same individual (i.e. the same person's voice is heard on multiple tests).

44. During the demonstration, the senior analyst advised that the OTI were constantly updating their guidance and sharing information to ensure that analysts could hone their skills. For example, they shared the distinctive use of particular idioms, verbal tics and/or answers being structured in exactly the same way between test takers. We were also advised that, in order to maintain accuracy, analysts were encouraged to take regular breaks and every effort was taken to avoid an analyst dealing with the same testing centre or the same questions repetitively.
45. ETS's statistics bear out the underlying reliability of the voice biometrics technology. Of over 33,000 possible matches identified by the system 80% were confirmed after human verification. As already discussed, many of those "non-verified matches" would have been because of the presence of noise in the background of recordings. The analysts adopt an approach whereby any doubt about the validity of a match will result in it being rejected. I am confident this mitigates significantly against the risk of a false positive.
46. ETS have identified thousands of cases where speech samples display marked similarities, leading OTI to believe an imposter was involved, and in such cases scores will be cancelled. Within the tests analysed the OTI has identified many instances where the speech sample indicates the same individual has taken tests in place of numerous candidates. Where a match has been identified their approach is to invalidate the test result. As set out in the witness statement of Rebecca Collings, ETS has informed the Home Office that there was evidence of invalidity in those cases.
47. Where a match has not been identified and verified, an individual's test result may still be invalidated on the basis of test administration irregularity including the fact that their test was taken at a UK testing centre where numerous other results have been invalidated on the basis of a "match". In

those cases the individual would usually be invited to take a free re-test. These cases are clearly distinguished by ETS in its spreadsheets provided to the Home Office from tests where there is substantial evidence of invalidity.

48. Having run the test data through their voice biometric engine, and verified all potential matches by way of independent analysis by 2 OTI staff, ETS can state that where matches have been identified the individuals taking those tests (which have been submitted on behalf of different test takers) are highly likely to be the same person.

Conclusion

49. Having attended a presentation by various ETS staff, discussed the verification process and witnessed the process first hand (including examples of both matches and non-matches), I believe that where ETS have identified positive voice matches among two candidates with different names it is because one person has sat the speaking and writing exam for both candidates. In my view this is clear evidence that both candidates have fraudulently obtained their TOEIC certificate and employed deception in their application for leave to remain.

STATEMENT OF TRUTH

I believe that the facts stated in this Witness Statement are true.

Signed:



Date:

23/06/14

RBI

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IN THE UPPER TRIBUNAL

JR/6299/2014

IMMIGRATION AND ASYLUM CHAMBER

IN THE MATTER OF AN APPLICATION FOR PERMISSION FOR JUDICIAL
REVIEW

BETWEEN:

THE QUEEN on the application of
Zaheer Hussain MOHAMMED

Applicant

-v-

SECRETARY OF STATE
FOR THE HOME DEPARTMENT

Respondent

WITNESS STATEMENT OF
REBECCA COLLINGS

I, Rebecca Collings, of the Home Office will say as follows:

1. I am employed by the Home Office as a Grade 6 Civil Servant working within the United Kingdom Visas and Immigration Directorate. I have been employed by the Home Office for 14 years. I have a key role in supporting the delivery of decisions to grant or refuse leave to enter or stay in the United Kingdom (UK). Part of this role is to oversee delivery of Secure English Language Testing (SELT) on behalf of the Home Office. I took responsibility for this area last autumn (2013).
2. I am duly authorised to make this witness statement on behalf of the Respondent in these proceedings. The purpose of my evidence is to provide the Tribunal with an understanding of:
 - i) the purpose of Secure English Language Testing (SELT) and how it is operated;
 - ii) the role of Educational Testing Services (ETS) therein; and
 - iii) the approach to the cases already considered which were reliant on a SELT certificate obtained from ETS.

3. This witness statement should be read in conjunction with the witness statement of Peter Millington, who deals with the work of ETS and the process and procedure ETS has used to assist the Home Office. I do not intend to touch on those points in any detail.
4. Where the content of this statement is within my own knowledge it is true. In all other instances it is true to the best of my knowledge and belief.

Background

5. SELT is an important element of the consideration of applications for immigration to the UK. Our policies require the hundreds of thousands of people wishing to come to the UK, or to stay here for a longer period than that previously granted, to demonstrate an adequate level of ability to speak English. Demonstrating language ability is a requirement for applications for those seeking entry clearance and leave to remain to work in the UK under Tier 1, Tier 2 (General, Ministers of Religion and Sportspersons) and Tier 4 of the Points Based System (PBS), as well as applications by partners and parents of persons settled in the UK and applications for settlement and for British nationality.
6. Applicants can demonstrate their English language ability in a number of ways:
 - by being a national of a majority English-speaking country; or
 - holding a degree that was taught in English and is equivalent to a UK bachelor's degree or above; or
 - in the case of potential students, having their sponsoring educational institution judge their English language ability, (only if their sponsor is a Higher Education Institution (HEI) and their course of study is at degree level or above); or
 - having passed an English language test approved by UKVI at the appropriate level.
7. The language testing policy started to be introduced in 2008, in recognition that the ability to speak adequate English was a key indicator of success for people coming to work here. Between 2008 and 2010 it was added to the requirements of all of the aforementioned routes. Initially, for those applicants who were neither a national of a majority English-speaking country nor held a qualification equivalent to a degree that was taught in English, arrangements existed whereby they could take a test with one of 19 providers identified by the Home Office which offered English language testing, equivalent to a recognised European Standard (an acceptable UK equivalence) but with whom there was no contractual or other commercial framework. This list included Educational Testing Services (ETS).
8. In 2010 a tender exercise was commenced to approve a small group of Home Office suppliers of SELT, which would work under licence to the department. Only tests taken with one of these providers would be accepted

as evidence of English language ability (where the applicant was neither a national of a majority English-speaking country nor held a qualification equivalent to a degree that was taught in English). The Home Office approved six providers to work under licence.

9. ETS BV was one of the six organisations given approval as a SELT provider. The licences commenced on 6 April 2011 and gave them permission to provide services to third parties (i.e. those applying for UK immigration), for our specified purposes. From 6 April 2011, any person wishing to apply under the aforementioned routes and who was neither a national of a majority English-speaking country nor held a qualification equivalent to a degree that was taught in English was required to take an English language test with one of the approved providers before making their application. Test providers were expected to ensure the security and integrity of their processes.
10. Tests could be taken in most countries around the world. Each provider operated its own type of testing (e.g. ETS were approved to deliver both Test of English for International Communication (TOEIC) and Test of English as a Foreign Language (TOEFL) tests for UK immigration purposes) but each test must map onto the Common European Framework for Reference (CEFR). This is a European language testing standard, by which the various different testing methods of the providers can all be rated. It should be noted that the suppliers, including ETS, delivered English language testing not solely for the purposes of UK immigration – the same tests might also be accepted by other countries (e.g. Australia) for immigration purposes, or might be required by employers.
11. Tests were available to be taken at different levels dependant on the immigration application type and ability of the test-taker. This is set out in the Table 1 below.

Table 1. Level of English language required (where SELT test required)

Immigration Category	Level of English required (CEFR standard)	Components required
Tier 1 (General)	C1 or above	Speaking, Listening, Reading, Writing
Tier 1 (Entrepreneur)	B1 or above	Speaking, Listening, Reading, Writing
Tier 1 (Graduate Entrepreneur)	B1 or above	Speaking, Listening, Reading, Writing

Tier 1 (Exceptional Talent)	B1 or above	Speaking, Listening, Reading, Writing
Tier 2 (Minister of Religion)	B2 or above	Speaking, Listening, Reading, Writing
Tier 2 (General)	B1 or above	Speaking, Listening, Reading, Writing
Tier 2 (General)	A1 or above	Speaking, Listening, Reading, Writing
Tier 2 (Sportsperson)	A1 or above	Speaking, Listening, Reading, Writing
Tier 4 (General)	B1 or above for courses below degree level B2 or above for courses at degree level or above	Speaking, Listening, Reading, Writing
Spouse/Partner	A1 or above	Speaking and Listening
Settlement	B1 or above	Speaking and Listening

12. Test takers were provided with notification of their results by the test provider, either by way of a score report, as in the case of ETS tests, or a certificate, which they then included as part of their visa application to be considered by the Home Office.
13. It was ETS's responsibility to ensure the integrity of their test procedure and to report any issues or concerns to the Home Office. SELT providers are responsible for accrediting their test centres and ensuring the Home Office criteria and their own standards are met.
14. Over the period of the licence we had, on the basis of intelligence or other information, undertaken investigative actions with SELT providers where concerns emerged, including, in May 2013, issues at ETS where we asked them to investigate suspicious levels of certificates with "top scores" being provided with applications for leave to remain in Tier 1. ETS verified these results as genuine.
15. Since the licences commenced in 2011, the Home Office also worked with providers to introduce further anti-fraud measures, particularly online

verification systems. This means that Home Office caseworkers can verify with the provider that the details presented in the certificate match their records (e.g. same photo, same scores), which mitigates the risk of fraud and significant further strengthening features were to be introduced via a tender exercise to deliver renewed provision from April 2014.

16. Although ETS was not expected to have fully implemented these when the BBC Panorama programme aired in February 2014 (as the re-tender exercise had not yet been completed), ETS had bid and provided evidence in relation to its security and other operating capabilities which demonstrated that it already met or would be capable of meeting all our requirements.

Abuse at Test Centres and Home Office Response

17. I became aware of the potential issues with testing at ETS when I was provided a copy of a letter from the BBC dated 6 January 2014, outlining its findings following undercover reporting and its intention to air an episode of its "Panorama" investigative programme. It said *"in our research into two approved English language exam centres we discovered instances of:*

- *Registered candidates standing aside from the secure computer terminals, allowing other people ("fake sitters") with superior English language skills to take the oral and written parts of the exam on their behalf. The fake sitters were organised by the very staff who were supposed to ensure the proper conduct of the exam.*
- *Verification checks, intended to act as proof that registered candidates sat the exams themselves, being falsified by staff at those centres in order to facilitate this fraud.*
- *Exam 'invigilators' at one centre dictating the correct answers to the registered candidates in the multiple choice part of the exam.*
- *At the other centre multiple choice exam answer papers were filled out and submitted without the registered entrant even being present.*

It is evident that the intention of all of these activities is to help exam candidates gain an English qualification by fraudulent means. And that this fraud is being perpetrated with the ultimate aim of enabling the recipients of those qualifications to attempt to deceive UK immigration authorities in their visa applications"

18. Subsequent correspondence with the BBC provided information that Eden College and Universal Training Centre were the test centres involved in the programme, at which 11 of the "top score" results previously sent to ETS had been taken.
19. The Home Office initiated a "Gold command" structure. This is a standard response to any item arising which is critical in nature and outside the bounds

of our normal business as usual. The parameters included commencing a full investigation as well as planning and implementing operational responses and communications for individuals who might be affected. Even before seeing the programme, from what the BBC had shared, there appeared to be a serious breach of the licence. The Home Office suspended the licence with ETS to allow our investigation to commence and for remediation to be proposed and considered.

20. Testing outside the UK (and for any purposes other than UK immigration) was allowed to continue. Given the information provided in the letter from the BBC (and we were not given prior sight of the footage they had recorded) before Panorama aired, we publicly announced the suspension of ETS testing in-UK and also that we were pausing consideration of applications using an ETS test certificate. This decision was taken because at this point we did not know the full scale or precise scope of the issue, but we believed there could be a significant threat to immigration control.
21. Applicants who had applied using an ETS test and those continuing to apply using tests taken before ETS suspended them on 6 February, were offered the chance to withdraw their application or take a test with another provider if they wished to avoid any delay to the processing of their application. The offer to take a new test was made because, at the time, the Home Office were only aware of two test centres being subject to abuse and we believed the majority of applicants would have a genuinely obtained test score and be able to prove this to us by using an alternative test.
22. We asked ETS to provide us with details of UK based candidates taking tests with them, initially for the eight months prior to February 2014, in order to establish the volume of customers affected. We subsequently requested details for all tests taken since the licence commenced in April 2011.
23. In addition we immediately instigated action to investigate the other providers to ensure that nothing of the same nature was occurring elsewhere in the overall system of SELT.
24. The episode of "Panorama" was aired on the evening of 10 February. We had had no opportunity to see the programme before it was aired. It was immediately clear that there was a serious breach of the licence and abuse of the immigration system had taken place. Most notably in relation to ETS test centres, individuals were able to pay to pass the English language test. Proxy test-takers were seen taking the speaking element of the test and answers were seen read out from the front of a class supposedly taking a multiple-choice element of the test.
25. From February into March our investigations, which included criminal investigations, progressed and we were in very regular contact with ETS to gather data, trend analysis and other evidence to enable the Home Office to make informed decisions on handling those affected who had either already had leave and previously taken a test with ETS or had an application for

leave pending with the Home Office and had taken a test with ETS. We also began scenario-planning for removing ETS as a provider. Testing continued to be suspended throughout, as did our consideration of cases in almost all instances.


26. In late March 2014, ETS informed us that it had been able to identify impersonation and proxy testing using voice recognition software. Early analysis demonstrated evidence of cheating, but ETS confirmed that it would take time to complete analysis for all tests taken since the licence began in April 2011. Details of the processes adopted by ETS are set out in the witness statement of Peter Millington.
27. ETS sent the Home Office the results of the analysis of the first batch of test centres on Monday 24 and Friday 28 March. Following the provisions of this data the Home Office had a teleconference with ETS on 1 April. The discussion focussed on the first batch of test analysis.
28. ETS described that any tests categorised as cancelled (which later became known as invalid) had the same voice for multiple test takers. On questioning they advised that they were certain there was evidence of proxy test-taking or impersonation in those cases.
29. ETS explained, at the time, that those categorised as questionable (as opposed to cancelled / invalid) were inconclusive in terms of being certain of impersonation/proxy test-taking. Following further communication with ETS they confirmed the definition of "questionable" and this is set out in Peter Millington's witness statement; it is where an individual's test result was still cancelled on the basis of test administration irregularity including the fact that their test was taken at a UK testing centre where numerous other results have been invalidated on the basis of a "match". ETS had analysed over 10,000 test scores at that point, of which the majority were cancelled as invalid, the remainder were cancelled as questionable.
30. ETS advised they were working to complete the same analysis for other test takers. Clearly these numbers were huge and the level of cheating was incredibly high. Further analysis continued to be sent by ETS to the Home Office and we agreed a schedule and priority of order for ETS to continue to do so. Information provided by ETS on individual cases was required for us to make decisions on an individual basis and in relation to the particular merits of their case.
31. However, the information we already had about the cancelled scores was sufficient to make decisions on the handling of those already highlighted as having taken a test with ETS. I believe we were right to have waited until 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.

Deception and section 10 Decisions

32. We recognised that where ETS had cancelled a test score because of impersonation and proxy test-taking that test score had been obtained by deception. We further recognised that persons in that position who then used that test score had sought to obtain leave by deception.
33. It is clear in Section 10 of the Immigration and Asylum Act 1999 (as amended) that a person using deception when seeking leave to remain may be removed from the UK.
34. A significant data matching process was commenced to take the results from ETS and match them (or not) to actual individuals with leave already granted or with applications pending. From this, we were able to segment the results into a series of categories (including, for example, pending application with an invalid result, pending application with a questionable result) and make detailed plans for handling the cohorts, recognising though that each case needed careful individual consideration to ensure the right outcome be reached.
35. In the case of pending applications with an invalid result and using the evidence ETS had provided, we took the decision that the cases could proceed to consideration and we would seek to remove persons from the UK for the reasons given above. This is standard procedure for those who have sought to obtain leave by deception albeit this would need to be delivered in large volumes by colleagues in Immigration Enforcement directorate responsible for removing persons from the UK.
36. Where the details of the certificate on the Home Office file matched those provided in the data from ETS as an invalid result, we undertook a consideration of all relevant factors (including for example possible Human Rights grounds) which might mean that removal was not appropriate. Where no such circumstances existed, we took a decision to remove the applicant on the grounds of deception under section 10(1)(b) of the Immigration and Asylum Act 1999.
37. Upon service of this decision, the leave that these individuals had become invalidated under Section 10(8) of the Immigration and Asylum Act 1999.
38. Chapter 48 of our Enforcement Guidance states removal should not proceed whilst there are outstanding unresolved representations. Paragraph 322(1A) of the immigration rules gives us clear grounds to refuse an application for leave to remain where "false representations have been made or false documents or information have been submitted". Where the details of the certificate on the file matched those provided in the data from ETS as an invalid result, we refused the application under Paragraph 322(1A).

STATEMENT OF TRUTH

I believe that the facts stated in this Witness Statement are true. I am duly authorised by the Respondent to sign this Witness Statement form.

Signed 
Full name Rebecca Collings
Position Held Grade 6 Civil Servant

Date 23 JUN 2014