

Home Affairs Committee

Oral evidence: [English Language Testing](#), HC 137

Wednesday 20 July 2016

Ordered by the House of Commons to be published on 20 July 2016.

[Watch the meeting](#)

Members present: Keith Vaz (Chair); James Berry; Mr David Burrowes, Stuart C. McDonald; Naz Shah; Mr David Winnick.

Questions 1-98

Witnesses

I: Ms Nidhin Chand and Asif Khan, individuals affected by the ELT issue, and Hermanus Gardner, Managing Director, Blake Hall College.

Written evidence from witnesses:

- [Nidhin Chand](#)
- [Hermanus Gardner](#)
- [Asif Khan](#)

Examination of witnesses

Witnesses: Ms Nidhin Chand, Asif Khan and Hermanus Gardner.

- Q1 **Chair:** I welcome two of our witnesses. Mr Khan is on his way, so if he gets here on time, we will add him to the panel. If not, you will have to hold the fort on his behalf.

The session today is divided into two parts: first, we are looking at our continuing inquiry into English language testing and the case regarding ETS; and then we have a separate hearing about Britain exiting the European Union, and the implications of that.

Ms Chand and Mr Gardner, thank you very much for coming. I will not repeat verbatim the history of the evidence that we have received in writing, or formally in evidence. You sat an English language test, I understand—

Ms Nidhin Chand: Yes.

- Q2 **Chair:** Tell us a little about why you sat that test, and what happened when you sat that test and subsequently.

Ms Nidhin Chand: It was in January 2013. My application was pending, and my solicitor said, “You have to write the TOEIC test.” I asked my solicitor, “Why?”, because when I submitted my master’s degree application to UKVI, I did not have to show any English language test. When he insisted that I had to write it, I went there, and I still remember—

- Q3 **Chair:** Yes, we will come on to that in a minute. You already hold a degree in what?

Ms Nidhin Chand: While I was writing the test, I was submitting my dissertation for a master’s.

Chair: In what subject?

Ms Nidhin Chand: Market penetration of ethnic media in the UK.

Chair: I am sure there is a lot of work in that.

Ms Nidhin Chand: Yes.

- Q4 **Chair:** Which you subsequently passed? Did you get your master’s degree?

Ms Nidhin Chand: Yes.

- Q5 **Chair:** As part of making that application, your solicitor advised you that you had to sit an English language test.

Ms Nidhin Chand: That is what he told me: I had to go and sit the test. As you can imagine, I had to submit my dissertation and I had to go on another course. He said—I looked into the test, which is easy—

- Q6 **Chair:** I understand. Your solicitor is not here, so we will accept what you



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say, that he told you to do the test. Do you remember where you sat this test?

Ms Nidhin Chand: I have forgotten the name of the college—I can look at my notes and get it, sorry. If you want, I can give you—

Chair: Just tell us what the college was.

Ms Nidhin Chand: It was South Quay College.

Q7 **Chair:** Where is that in the United Kingdom?

Ms Nidhin Chand: I can tell you. I went to—

Chair: We do not need to know the travel arrangements, just roughly. Was it in London?

Ms Nidhin Chand: Yes, it was in London. From Stratford, I had to take a train.

Q8 **Chair:** So you went to take your test. Did you take the test yourself—

Ms Nidhin Chand: Yes, of course!

Chair: May I finish my question first? I know you are eager to give evidence, but you need to calm down, okay. Did you take the test yourself on that day, or did you send someone else to take the test for you?

Ms Nidhin Chand: I never sent anyone to take the test for me. I went there on two days, the 23rd and the 24th, and I wrote the test by myself.

Q9 **Chair:** Do you remember any of the questions that you were asked?

Ms Nidhin Chand: One particular question I can tell you about was about a picture—I had to use the right prepositions, or something like that. I remember the picture, because it was something related to my son's first book, so I remember one boy was there on a tree, or something like that in the picture.

Q10 **Chair:** Okay. You were one of 54,000 people, which is a huge number. We cannot get them all to give evidence to us, so you are here, in a sense, as a representative sample. You are one of 52,000 people who have been told that someone else sat that test for you. You do understand that you are appearing before a Committee of Parliament? If you tell us something wrong—it is not a court of law, but it is almost like a court of law—it is a very serious thing to do.

Ms Nidhin Chand: I understand.

Chair: The Home Office has said that on the day you said you took your test, someone else took the test for you.

Ms Nidhin Chand: I can even tell you the colour of the carpet. With my English, I do not have to use another person to write my test. I went both days, I sat there and I remember the seating arrangements. I think I



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remember signing on the reading sheet—I am not clear in my memory, but I think I did so.

Q11 **Chair:** It was three years ago, and we cannot all remember everything. But you remember being there?

Ms Nidhin Chand: Yes.

Q12 **Chair:** As a result of the Home Office saying that this test was obtained because somebody else did the test—

Ms Nidhin Chand: No.

Q13 **Chair:** No, I understand you have said no, but that is what they are saying. You were subsequently arrested.

Ms Nidhin Chand: Yes.

Q14 **Chair:** And your house was searched by immigration officials. Did that come as a surprise to you?

Ms Nidhin Chand: Can I expand a little bit on that? I applied for my visa extension for my PhD in July 2014. I had been there for a premium service and they said there was an IT failure. I constantly called them because I wanted to go to India to see my father—my father was not well. I constantly called them and asked how my application was going. They said “It’s in process.” But on 4 January—in their records they change the dates every now and then; now they are saying it is the 5th, but they came on 4 January, which was a Sunday—

Q15 **Chair:** Who came?

Ms Nidhin Chand: UKVI.

Q16 **Chair:** To your house?

Ms Nidhin Chand: To my house. I was not there; I was at my friend’s house. They told my landlord that I am an illegal person. You can understand—I am so scared to sit here now, and you can imagine how fragile I would have been. I was feeling so vulnerable. I called my solicitor and my solicitor called the UKVI on 6 January. The caseworker said my application was pending. My solicitor wrote to UKVI asking about my application. He asked what the search was for. They replied to me on 13 January 2015, saying “It’s compliance with immigration law. Your application will be processed ASAP.” I have all the evidence with me. After a few days they arrested me, and now they are saying that—

Q17 **Chair:** Arrested you for what?

Ms Nidhin Chand: The police came to me and said, “We have to arrest you and we have to call up UKVI, because your photo and your name are in our records.”

Q18 **Chair:** Is this because of the English language test?

Ms Nidhin Chand: They didn’t say anything about the English—



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Chair: They didn't say it at the time?

Ms Nidhin Chand: They said "deception" then.

Chair: Deception?

Ms Nidhin Chand: Yes.

Q19 **Chair:** So it was only later that you discovered that this was because they thought that somebody else had taken your test.

Ms Nidhin Chand: Yes. The immigration officer came to the prison after 20 hours and he interviewed me—

Q20 **Chair:** You went to prison?

Ms Nidhin Chand: Yes, for 20 hours.

Q21 **Chair:** How old are your children?

Ms Nidhin Chand: Twelve.

Q22 **Chair:** And what happened to them?

Ms Nidhin Chand: He is back with my parents. That is the reason I am here. I just want to prove that I am innocent.

Q23 **Chair:** Mr Khan, tell us about your story. If you answer my questions directly, rather than giving me anything above the questions, I will be grateful, so listen to my questions first. You are in this country pursuant to what visa—are you a student or an entrepreneur?

Asif Khan: I am on a student visa, sir.

Chair: You are a student.

Asif Khan: Yes.

Q24 **Chair:** And when you applied for your test, why did you apply to do an English language test when you were already in the country?

Asif Khan: Basically, I came to this country in 2009. I would like to say a little bit about my background, otherwise you won't understand—

Chair: We do not need a huge background. We just need to know why you did the test.

Asif Khan: Because I had completed my diploma level and I wanted to go for my graduations. The university requirement at that time was the English test. But some of the universities did not require it, because if you have completed your diploma in this country, you don't need to prove your English skills.

Q25 **Chair:** So you needed to do your test because you wanted to do further education. Is that right?

Asif Khan: Yes. I just wanted that.



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Q26 **Chair:** Right. So that's why you did it. What degrees do you hold at the moment, Mr Khan?

Asif Khan: A BSc in business management.

Q27 **Chair:** Right. Where did you do your business management course?

Asif Khan: University of Sunderland.

Q28 **Chair:** Do you remember the day you went to sit this test?

Asif Khan: Of course I do, sir.

Q29 **Chair:** Do you remember where you sat this test?

Asif Khan: Yes. It was a business school of technology—a college near Southgate.

Chair: Southgate? In North London?

Asif Khan: North London.

Chair: In Mr Burrowes's constituency.

Asif Khan: I was living in North London—Arsenal—so at that time period it was really convenient for me to go to that centre.

Q30 **Chair:** What happened when you got there and sat the test?

Asif Khan: When I went to the exams I saw a couple of students—around 40 to 45 students there preparing to take the exams. After that the official organisers came and gave instructions—"Go to this room, go to that room"—and there were computer labs. It is based on the computer, so basically everyone had their own desk for their computer—

Chair: Did you go to a computer and did you sit that test?

Asif Khan: Of course I did.

Q31 **Chair:** Do you understand what you are saying to this Committee? If somebody misleads this Committee, it has the power to recall them, and there are very serious sanctions.

Asif Khan: Of course, sir. I do.

Q32 **Chair:** Did you sit this test yourself, or did somebody else sit the test for you?

Asif Khan: Nobody. I don't need to send someone, sir. I know my skill in the English language. Why should I do that offence?

Q33 **Chair:** Do you remember any of the questions you were asked?

Asif Khan: For the test? Yes, of course I do.

Chair: Like what?

Asif Khan: Not all of this, but basically it is different language skills like reading, writing and listening. I believe there was a reading test; but



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really it was just—the topic was students' graduations. If it is higher progressions, how could their country give the facilities for their higher education students to get the jobs?

Q34 **Chair:** Right, thank you. Have either of you been sent, by the Home Office, a copy of your disc which has your voice on it?

Ms Nidhin Chand: No.

Asif Khan: No, I didn't get it.

Q35 **Chair:** Have any of you been sent a copy of any disc or any evidence against you?

Ms Nidhin Chand: No.

Asif Khan: No, sir.

Q36 **Chair:** Mr Gardner, you have been in education for longer than I have been in Parliament, I think.

Hermanus Gardner: I don't think so, Chairman. I have been in education for 10 years.

Q37 **Chair:** Now, you ran a college, called Blake Hall College, which has now closed down as a direct result of the ETS/ELS problem.

Hermanus Gardner: Yes.

Q38 **Chair:** Tell me simply, without a long story, how did this affect you? Why is your college now closed, as a result of what has happened?

Hermanus Gardner: How did it affect me personally, Chairman? In many ways. Blake Hall College was always going to be my pension. I am a serial entrepreneur and Blake Hall College was going to be my pension and I cared for it like a baby because it was going to be my pension. We were very proud of what we achieved at Blake Hall College in that it started out as a short IT course college way back in 2001. I got involved in 2004 and eventually we took it from a short-term IT college to a college where more than 2,000 students actually received their degrees.

Q39 **Chair:** In respect of ETS and ELS, the students came to you with a certificate that had been obtained by sitting—or not sitting—a test at ETS. How many of your students had in their hot little hands a certificate from ETS/ELS?

Hermanus Gardner: Truthfully, I can't tell you.

Chair: As a proportion.

Hermanus Gardner: As a proportion—this is a guesstimate, Chairman—I would say most probably not more than a third.

Q40 **Chair:** Why, then, did the Home Office question these certificates? They came to see you; is that right?



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Hermanus Gardner: Yes, they did. They came up with the same sort of questions. Do I need to say more than what Nidhin has just said, here? That was the sort of approach, the attitude, from day one. Up to this point in time—well, obviously the last two years wouldn't have mattered, because the college closed down two years ago—there was absolutely no serious evidence ever presented to us on any one of our students having obtained their qualifications fraudulently.

- Q41 **Chair:** When the students came to you with their certificates, presumably as they do when people come to my constituency surgery and they say they are going for a higher degree and I listen to them, and I hear what they have to say, and I hear the way they speak English—was anything brought to your attention that caused you concern that these certificates were being obtained fraudulently?

Hermanus Gardner: Not at all. We had a very strict vetting process whereby students were interviewed. Obviously the first thing that you try to do is establish whether they had a level of English proficiency that would in fact qualify them to do that degree course, or that particular course. We offered by and large degrees from the University of Greenwich and Canterbury Christ Church, so there was no serious motivation for us just to accept the students for the sake of accepting them.

- Q42 **Chair:** But of course, it is income for you. Why should you look behind a certificate? You weren't doing the test, were you? Somebody else was doing the test. You were very happy to have the student.

Hermanus Gardner: Well, Chairman, I said to George Shirley, who was at that point—I went to Sheffield on three occasions—

Chair: Sheffield being the Home Office headquarters.

Hermanus Gardner: Sheffield being the Home Office. I went there on three occasions face to face to try and resolve our problem because I knew that 400 students' futures were at stake.

Chair: Of course.

Hermanus Gardner: And I said to him, "ETS is in fact your contract; am I right?" and he said yes. I said, "Well, the reality is what you are telling us now is we should have been policing your contract. That is totally unheard of."

- Q43 **Chair:** We have pursued those very same questions with the Home Office, and will continue to do so. However, you have a vested interest, of course, because you get the fee from the student. You don't really have to look behind, do you? You just get a student with a certificate and therefore you get their fee and you enrol them.

Hermanus Gardner: Chairman, no, it's a little bit more important than that. At stake was our status with the QAA, and on the first inspection, which cost a very small college like ourselves £24,000 to have it done—

Chair: And this is an inspection by the Home Office?



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Hermanus Gardner: No, no—the Quality Assurance Agency.

Chair: This is an independent inspection?

Hermanus Gardner: Which is the Government agency for inspecting all higher education institutions.

Q44 **Chair:** Sure. Did you pass that test?

Hermanus Gardner: We not only passed the first one, we got—you get three levels of assessment. One is “confidence”; the lower one is “no confidence”; and then you virtually go into some form of rehabilitation. And the best one—the top one—is “commendable progress”. On the first one, Blake Hall College got “with confidence” and on the second one we actually got “commendable progress”, which was the highest accolade that we could get, and we were very proud of that. And we knew that if we did not watch the progression of our students we would be in trouble.

Q45 **Chair:** Of course, because the coalition Government were very clear that they wanted to close down bogus colleges, and there were bogus colleges around and therefore they were right to close them down.

Hermanus Gardner: I agree wholeheartedly.

Q46 **Chair:** Now, in respect of the fees that have been given by students, Mr Khan, what did you pay for your test?

Asif Khan: £150 and also I paid one week of tuitions as well.

Chair: You paid for tuition?

Asif Khan: Yes.

Chair: How much did that cost you?

Asif Khan: £70 for the three tests—mock tests.

Chair: £70? And then you paid—?

Asif Khan: £150 for the test—

Q47 **Chair:** £150. Ms Chand, do you remember—I know it was three years ago—how much you paid for the test?

Ms Nidhin Chand: No, I’m sorry, because my solicitor, as I have mentioned, he’s the one who paid and I paid to the solicitor firm, and they paid—

Chair: But you did pay a fee?

Ms Nidhin Chand: Yes, of course.

Q48 **Chair:** Mr Gardner, people presumably had to pay for these tests, so ETS—the company that is at the centre of this— has received millions of pounds from people in this country for conducting tests, some of which have been found to be fraudulent?



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Hermanus Gardner: Yes.

Chair: I mean, it's a big money spinner for them, isn't it?

Hermanus Gardner: Massive. I think there's reason for a class action in America, Chairman.

Q49 **Chair:** Exactly. How much do you think they made? We're talking about 54,000 students who have fraudulently had tests, according to them. I mean, they've made a huge amount of money, haven't they?

Hermanus Gardner: That's a couple of million.

Q50 **Chair:** If you go and have a test now—I don't know whether either of you have gone to have a new test. Have you gone to have a test through Trinity?

Asif Khan: No.

Ms Nidhin Chand: No.

Chair: Mr Gardner, apparently if you go now, and the Committee will be having a visit to one of these centres because we want to get to the bottom of this, there is now a Home Office inspector who is present while these tests are taking place. Do you welcome that change?

Hermanus Gardner: I think that makes sense. Absolutely. That should have been the situation from day one.

Q51 **Chair:** Mr Khan, do you have anything further to say to me? I've got colleagues who want to come in about your particular case. Where does this leave you now? How long have you been waiting? Are you working at the moment, or are you not working?

Asif Khan: No, Sir. Apparently, after that happened, they reconsidered my action protocols, and the solicitor did too, and I'm waiting. After 9 June I sent another letter to ask what is going on. I cannot study because my university don't allow me to go—

Chair: Of course. So, since your certificate was questioned, you have not been in education or in employment?

Asif Khan: No.

Chair: So you're in limbo?

Asif Khan: Totally. I was like—

Q52 **Chair:** And who is your Member of Parliament?

Asif Khan: I think it's—I directly contacted you, obviously.

Q53 **Chair:** Yes, well, we'll send your case on to your Member of Parliament; I'm not your Member of Parliament.

Ms Chand, what's your position now? You're taking on the British Home Office; they've got unlimited resources; and there's only you. Okay?



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You've already been arrested and you've already had your house searched. Why are you still here in this country? Why don't you just give up and go back, because—?

Ms Nidhin Chand: I wanted to prove my innocence; I wanted to tell my son I haven't done anything wrong.

Q54 **Chair:** Because at the moment, this is hanging over your head. Is that right?

Ms Nidhin Chand: Yes, yes.

Q55 **Chair:** So that's the reason why you'll stay?

Ms Nidhin Chand: Yes, yes. Even if they say—can I give some evidence?

Chair: You can give me evidence, but you can't read it out if it's long.

Ms Nidhin Chand: My solicitor had applied on the ground of human rights and they gave the reply, "May I ask you to go through this?" On 4 May 2013, they gave a curtailment letter, which ended in December 2015. Actually, I have a copy of that curtailment letter. It is for 60 days, which is false evidence. Plus they said that during that period I travelled abroad. How do I travel abroad, when the passport is with them? The curtailment letter is how they give the evidence. When they arrested me, they said I used TOEIC in November 2012, but I hadn't written the TOEIC at all. Then, when I gave the evidence and I gave the copy of the application, they now say, "Oh, no, no, July 2014."

Q56 **Chair:** Are you still paying solicitors to represent you?

Ms Nidhin Chand: Yes, of course.

Q57 **Chair:** How much has it cost you so far to prove your innocence?

Ms Nidhin Chand: To be frank, I can give only a rough figure. Can I?

Chair: Give me a rough figure—that is all I want.

Ms Nidhin Chand: I think £6,000.

Q58 **Chair:** £6,000. Mr Khan, have you instructed solicitors? How much has it cost you?

Asif Khan: For action protocols and everything else, I have spent £2,000 already, but I am waiting for the response. I did not go for the judicial review because I also respect their decisions. I am waiting for them just to consider or whatever. I want to study. My point is to finish my—

Q59 **Chair:** If the Home Office called you for an interview, Mr Khan—

Asif Khan: I want to give this to you, sir.

Chair: No, don't give me those papers yet. Send them to us. Have they called you to see you so that you could prove that you had not behaved in a fraudulent manner? Have they called you in?



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Asif Khan: I already gave the interview, which was on 1 April 2015 for my visa extension.

Chair: So they called you in?

Asif Khan: Yes. It was Paddington. It was around 45 minutes interview on Skype, between me and one of the Home Office—

Q60 **Chair:** So the Home Office has actually interviewed you since. And what has happened since?

Asif Khan: After that, I got my permission to stay here, to complete my masters. In the running of my masters, after two semesters, I got married. My wife came and she applied for a visa and she got a visa. We started a life of bliss, because I had agreed my masters and I had a plan for my PhD and then I will go back to my country to become a university lecturer. That is our plan.

Q61 **Chair:** So you were given permission to stay. You started your education again and then you had your whole—

Asif Khan: In the middle of the term, suddenly I received this letter.

Chair: Because of your certificate. I see.

Q62 **Stuart C. McDonald:** Thank you all for your evidence today. I have a couple of extra questions. First of all, Ms Chand, when you went to do your test, were there any steps taken to try to confirm your identity or were any pictures taken of you or was there anything done to make sure that the right person was taking the test?

Ms Nidhin Chand: Yes. They will take a copy of the passport—I don't remember. The passport was with the UKVI, I guess, because my application was pending. I think they take the copy of the passport. They will check your passport or the copy of the passport. Plus, they take a photo of you. They took a photo of myself, when I was there, and that photo is there in the certificate. So that is the proof, again, that I had been there.

Q63 **Stuart C. McDonald:** They took a photo. Did they keep a copy of your passport themselves?

Ms Nidhin Chand: Yes.

Q64 **Stuart C. McDonald:** Thank you very much. Mr Khan, what about when you went to do your test?

Asif Khan: Yes, they took pictures—physical pictures, in front of the camera—and then they allowed me to go for the final step, for the exam stage.

Q65 **Stuart C. McDonald:** Did they ask for a copy of your passport?

Asif Khan: Of course. I provided my passport photocopy, which is a colour copy— Before my registration, when I paid my money, I gave my passport copy, obviously, and they checked my physical passport at the exam stage.



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Q66 **Stuart C. McDonald:** And they kept a copy of the passport, did you say?

Asif Khan: Of course.

Q67 **Stuart C. McDonald:** Ms Chand, you said that the photograph that they took appeared on a certificate that you have.

Ms Nidhin Chand: Yes.

Q68 **Stuart C. McDonald:** Would you be able to send that certificate to the Committee?

Ms Nidhin Chand: I think I have already sent it to the Committee.

Chair: Yes, we have it.

Q69 **Stuart C. McDonald:** That's great. What about you, Mr Khan? Did you get a certificate with that photograph on it?

Asif Khan: Yes. I have my certificate with me; I can provide it.

Stuart C. McDonald: If you can send that to the Committee, that would be very useful. Thank you.

Asif Khan: Right now?

Q70 **Stuart C. McDonald:** No—after the meeting.

Asif Khan: Of course.

Q71 **Stuart C. McDonald:** That's great. Mr Khan, you also said that when you went to do your test, there were people who were directing you to the computers? Who were these people?

Asif Khan: I think it was the college staff, sir, who were working in the college. Also the instructors from the ETS obviously were there to see the exams going on. I think there was a visit as well that came to my college. I believe that. I still don't know but they said there were visits coming from the ETS. I remember that.

Q72 **Stuart C. McDonald:** Just to be clear, the test that you are doing is recorded on to a computer?

Asif Khan: Of course. It is.

Q73 **Stuart C. McDonald:** And then is anything done to that computer before you leave the test centre or do you just leave the test centre immediately after doing the test?

Asif Khan: When it finished, I just got out from the room because making noise makes other persons feel disturbed. That is why before the 45 minutes had gone, I had done my exam so I just got out.

Q74 **Stuart C. McDonald:** So you have no idea what happened to that computer after you finished your test?

Asif Khan: No.

Q75 **Stuart C. McDonald:** Mr Gardner, just to be clear on a couple of things



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that you said, essentially what the Home Office said was, "If you do not curtail the leave of the people on the list, you lose your sponsorship licence."

Hermanus Gardner: It was never said, but it was implied all the time. After the first visit, we got a list of students who were so-called frauds. In fact, on the train down, I did what we believed they required of us, which is we got in touch with the college and we suspended those students or curtailed their classes with immediate effect. We were commended by the Home Office at that time for making progress in the right sort of direction, but they were at pains to say to us that we needed to understand that they never instructed us to do this. They still commended the fact that we actually did it.

Q76 **Stuart C. McDonald:** It must have been a heck of a shock when they finally revoked your licence. What explanation did they give for that action? Did they revoke your licence?

Hermanus Gardner: It was initially suspended, and we tried our level best to reinstate it but it was eventually revoked on 4 October with the loss of the college.

Q77 **Stuart C. McDonald:** Did they give any further explanation for that decision?

Hermanus Gardner: There were 36 reasons or something, and it all boiled down to our being a threat to the immigration system. Quite honestly, it was in my interest not to be a threat to the immigration system—after all, I am an immigrant.

Q78 **Stuart C. McDonald:** You referred to the ballpark figure that roughly one third of your students were perhaps doing this particular test. That would obviously have a huge knock-on effect on the two thirds who had nothing to do with ETS. What steps did the Home Office put in place and what did they do to try to safeguard those students who were obviously not implicated in ETS testing?

Hermanus Gardner: To the best of my knowledge, there was nothing concrete that we could pass on to the students. The feedback that we got was that colleges were advised not to take students from colleges that had been suspended or where licences had been revoked.

Q79 **James Berry:** Are you aware of any people cheating on the test?

Asif Khan: Yes. As the Home Office states, there were a couple of people. Not everyone was innocent, but I suggest that 90% were innocent.

Q80 **James Berry:** So are you aware of anyone cheating on the day that you took your test, or are you speaking generally?

Asif Khan: No. I just took my test; I was not watching what other people were doing.

Q81 **James Berry:** So it is likely that some people cheated on the test, but neither of you cheated. What you are essentially asking for is to be given



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the evidence against you or to be able to provide your own evidence to prove that you did not cheat. It is as simple as that.

Ms Nidhin Chand: Yes.

Q82 **James Berry:** Do you agree that it is right that if people are found to have cheated, that is not compatible with remaining in this country?

Ms Nidhin Chand: Yes.

Q83 **Chair:** Mr Khan, you mentioned CCTV. On the day, everything was recorded on CCTV.

Asif Khan: Yes, definitely. It should be everywhere in the school or college.

Chair: So it is quite possible—

Asif Khan: I believe it is quite possible to find that day and to get the CCTV out from the college. I am pretty much sure that it should be possible.

Q84 **Chair:** Ms Chand, do you remember whether there was CCTV? It is not something that one would look for, but—

Ms Nidhin Chand: I think there should be, but I do not remember seeing any.

Q85 **Chair:** Just to follow up on Mr Berry's important question, on the day that you were there, did anyone sidle up to you and say, "Hello, Asif. Would you like me to do the test for you? It will cost you £20"?

Asif Khan: No, no.

Q86 **Chair:** Because you would remember that, wouldn't you? Would you remember that if they did?

Asif Khan: It has never ever happened—no one has gone to exams saying, "Give me £20 and I'll take the exam"—

Q87 **Chair:** Of course. You would remember that and you would tell the Committee, if it had happened to you and someone had offered you—

Asif Khan: I didn't tell—

Q88 **Chair:** No, no. You would tell us if it had happened to you. If somebody had come to you and offered you—

Asif Khan: I never saw that.

Q89 **Chair:** All right. Ms Chand, did somebody come up to you and say, "Give us £20 quid—"?

Ms Nidhin Chand: No.

Q90 **Chair:** No? You would be surprised, wouldn't you?

Ms Nidhin Chand: Yes.



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Q91 **Naz Shah:** I just have a few questions. Ms Chand, when you were arrested—I saw that you were emotional earlier—

Ms Nidhin Chand: I am really sorry about that.

Naz Shah: No, that is absolutely fine. What happened to your 12 year-old, who was with you at the time?

Ms Nidhin Chand: He was not—that was what I was about to say.

Q92 **Naz Shah:** He wasn't there when you were arrested?

Ms Nidhin Chand: No, he is with my parents. I haven't seen him for more than two years and seven months. I have been asking them—I am the only child for my parents. I would like to go back. I am an innocent student here. I would like to continue my studies. I have been repeatedly—each month I have to go for the reporting. I try to talk to the enforcement officers and ask them, is there any way I can go back? They say they are not dealing with my case; I have to speak to the case worker.

I am sorry, I wanted to mention one more thing. When you asked me about the immigration officer who interviewed me, he said, "Your English is good, you haven't made any mistake, you give us every consideration letter. I will be sending a report to UKVI and your reconsideration and my report altogether will be considered and you will be able to do whatever you were doing here." But each time I go to the UKVI reporting centre, I ask the enforcement manager and he says, "The report is there"—but they are not even giving us the report back. My solicitor wrote to UKVI asking for the immigration officer's report. They are not giving it back either.

Q93 **Naz Shah:** Thank you. Mr Khan, were you arrested when this happened—how did you find out?

Asif Khan: I was not arrested, I just received a letter, but I had 13 hours stuck in immigration when I came back from my country. I was stuck by reason of the immigration history check: 13 hours. They checked everything. I gave the immigration officer an interview three times, regarding my English skills and my educational background, and after that until 9 o'clock, I can remember—it was 7 o'clock my plane landed, and until the next day at 3 o'clock I was in the detention centre about my immigration history check. The next day my university confirmed that 80 persons attend my class; I am a very good student and get everything. Then they let me go, to come in.

Q94 **Naz Shah:** What did you do when you found out that your sponsorship had been withdrawn? Did you challenge it?

Asif Khan: Yes, I sent every single letter to my solicitor through to my university and also to the Home Office about the pre-action protocols—"I am challenging your decision; can you consider it, can you review my application again." After my graduation I was not expecting this, I cannot accept this victimisation. It is not fair. They are giving me section 10, which is totally unfair, after the interview they took it from me.



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Q95 Naz Shah: So were either of you presented with any evidence about how they think that you committed this fraud? Did they give you any evidence?

Asif Khan: No.

Ms Nidhin Chand: No.

Asif Khan: No—just section 10. Section 10 is like doubt—it could be for anyone. A student's life could be destroyed for reason of section 10, honestly. I lost seven months; I could have done my masters in the meantime, but I couldn't. Who is going to give me this time back?

Ms Nidhin Chand: The money I have paid for my PhD, at one college, as he said, my college also closed down. There was no notice to the college. The CEO of the college told me, it is just because there were TOEIC students—that is the reason the college had closed down. I lost the money there. I lost the money again on another course. There is a huge amount of money involved.

Q96 Naz Shah: Would you recommend your fellow countrymen to come to England to study, after your experience?

Asif Khan: No, I would not.

Ms Nidhin Chand: No, I would not.

Q97 Chair: You are not an expert in voice recognition, Mr Gardner, but this case rests on ETS telling the Home Office, in numerous cases that have been before the courts, that they have an expert and that expert says that the voices of the people who took the test are different from what is on the computer. This is not, of course, independently verified, but you did something immediately. You suspended people from their colleges. Even though some people might find that a bit unfair, you suspended and then tried to find evidence. You did the tough thing because you wanted to make sure you kept in the Home Office's good books.

Having looked over the case again—I know you are not an expert in voice recognition—what would have been a better way to handle this, given that you have been in the front line of education? You must have come across students who pretended to be able to speak English or behaved fraudulently. Somewhere in your long history in education, that must have come across your desk or in front of you. What would have been a better way to handle this as far as the Home Office is concerned, rather than sending out 54,000 notices telling people they have to leave?

Hermanus Gardner: A difficult question, to be very honest.

Chair: That is why you are here, Mr Gardner.

Hermanus Gardner: I believe that if there was a serious sense of objective evaluation from the Home Office, it would have put systems or specific rules in place, as they have now done, with a UKVI or Home Office person next to the person. They would have looked at this more seriously. That is the first thing.



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The second point that should or could have been considered was to say, "Well okay, we believe you are in fact or maybe taking on students who do not qualify as a result of their level of English proficiency. We would like to identify them to you and we would like you to sit down with them and assess them personally."

As I said to Mr McDonald, we never had any evidence. As a matter of fact, it is interesting that they kept moving the goal posts in our situation. Three times I went up to Sheffield and three times there was a new issue.

Ms Nidhin Chand: Same as my case.

Hermanus Gardner: When we went up last time, we were told that 13 students were phoned the previous day—as it happened, we already had an appointment with UKVI—and over the phone it was established that the voice recognition said that the test results were obtained fraudulently. When I walked in I saw George Shirley and said, "May I have proof of that?" His words to me were, "No. We have already taken a decision. We are not prepared to release it to you." I said, "You are accusing me of something. My sponsorship is on the line, yet you are not prepared to give me any evidence. Surely this can't be fair."

Q98 **Chair:** This is the final question. You have dealt with the Home Office so many times over so many years. Why is there a blanket closing of minds and reliance on a company all the way away in America which it has no control over? It has not verified voice recognition. It cannot confirm that the voices are the same. In this case, neither of our witnesses have even received their discs or those of anyone else properly verified. Why do you think has been done, Mr Gardner?

Hermanus Gardner: I have my own theory.

Chair: Let's hear it.

Hermanus Gardner: It was prior to the election and the student visa students were still part of immigration numbers, which I still believe they shouldn't be. The students were the soft underbelly of immigration. I remember the previous Minister for Immigration standing up in Parliament and making his point loud and clear saying, "Today we have clamped down on colleges. We have closed down x number of colleges." This was to show that the Government at that point were tough on immigration and that was the message they were trying to get across. That is my own theory, Mr Chairman. I may be completely wrong.

Chair: Okay. Mr Kahn, Ms Chand, Mr Gardner, thank you very much for coming in.

Ms Nidhin Chand: Can I say one more thing?

Chair: Only if it is very brief.

Ms Nidhin Chand: It is very brief. Because I have section 10 out-of-country right of appeal, I am not able to appeal. If I had an appeal right, I



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would have been able to go to court, explain exactly and show the evidence. Because of the out-of-country right of appeal, I am still here—

Chair: You have made it very clear to the Committee that you want to stay to clear your name so you can face your son and tell him you are not someone who has obtained their certificate fraudulently.

Mr Khan, you want to stay because—please don't read anything else out.

Asif Khan: My request to Committee members and to everyone, the Home Office as well, is that this is someone's life. It is not just about humanity; I am talking about life. Everyone has a right to live life. That is my request because it is thousands of students, not only me. My dad suffered at the hospital because of the decision.

Chair: Of course. It is not very nice to be accused of fraud when you have not committed fraud, and I think all of us feel the same way. We have not made a decision on this. We are continuing with this inquiry, but we are very grateful to all three of you for coming here publicly and discussing your cases. It takes a lot of courage to do that, and we are very grateful indeed. Thank you very much.