

Public Accounts Committee

Oral evidence: [Windrush Generation and the Home Office](#), HC 1518

Monday 17 December 2018

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[Watch the meeting](#)

Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Chris Davies; Chris Evans; Caroline Flint; Shabana Mahmood; Nigel Mills; Stephen Morgan; Anne Marie Morris; Bridget Phillipson; Lee Rowley; Gareth Snell; Anne-Marie Trevelyan.

Questions 1-217

Witnesses

[I](#): Adrian Berry, Chair of Trustees, Immigration Law Practitioners' Association, Chai Patel, Legal and Policy Director, Joint Council for the Welfare of Immigrants, Vernon Vanriel and Jon Feld.

[II](#): Sir Philip Rutnam, Permanent Secretary, Home Office, Shona Dunn, Second Permanent Secretary, Home Office and Diana Luchford, Director, Windrush Reform Programme, Home Office.

Report by the Comptroller and Auditor General
Handling of the Windrush situation (HC 1622)

Examination of witnesses

Witnesses: Adrian Berry, Chai Patel, Vernon Vanriel and Jon Feld.

Chair: Welcome to the Public Accounts Committee on Monday 17 December 2018. We are here today to consider the National Audit Office's Report on the handling by the Home Office and the Government of veterans of the Windrush, the generations of people who arrived from the Commonwealth prior to 1973, and their descendants.

The Home Secretary said that the Government are very sorry about what happened. Today, what we want to hear from the Home Office and others is what they are doing to make things right and fix the problems that arose and are still affecting people as a result of what happened, when many Commonwealth citizens were unable to continue their normal lives as citizens of this country. Our concern is that the Home Office lost sight of people in the middle of all its procedures, and of the human impact of its policies. We will be focusing on what went wrong and on what lessons have been learned from Windrush so that the same thing doesn't happen again.

Today we have two panels of witnesses. I am delighted to welcome our first panel. From my left to right, we have Jon Feld, who is here to accompany Vernon Vanriel. Vernon is a member of the Windrush generation who left Jamaica in 1962 to move to London. He will no doubt tell us his story in a moment. Then we have Chai Patel, the legal and policy director at the Joint Council for the Welfare of Immigrants, usually known as the JCWI. Welcome, Mr Patel. Then we have Adrian Berry, chair of trustees at the Immigration Law Practitioners' Association. Both those organisations, as some of us know from our constituency casework, have been working closely with individuals and have been looking at the wider issues. Hopefully we will come on to the wider issues with those two witnesses.

Thank you for coming—particularly Mr Vanriel. It is really important to us, as a Committee, that we and the Government—there are officials from the Government sitting behind you—hear directly what the human impact has been on you. I am going to hand straight over to Shabana Mahmood to kick off.

Q1 Shabana Mahmood: Thank you, Chair. Welcome to the panel. Thank you very much for coming in. Mr Vanriel, can I start with you? Could you please tell us what happened to you? When did you arrive in the country, and what happened when you tried to re-enter and come back home in 2005?



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Vernon Vanriel: Good afternoon, everybody. My name is Vernon Vanriel, as you have probably ascertained. I left Jamaica in April 1962 to come here to reside with my father, who was already here. I left Jamaica with my mother, my brother and three sisters at the age of six. I went to school here, did an apprenticeship in electrical installation and learnt to box here.

I went on holiday to Jamaica and ended up getting a son. In July 2005 I decided to go back to Jamaica to spend some time with the child—he was only about seven at the time and I hadn't seen much of him—and after two years, when I tried to get back to the UK, I was told that I couldn't. While over there, I had nowhere to live, because all my family was here in the United Kingdom. I was living on the streets for several years, in derelict buildings. I was assaulted, I was abused and all sorts of things took place. I have got chop marks from when I was chopped by a machete, on a number of occasions. Life was very difficult.

My sister Lynette used to send me what money she could from her earnings, but then she became a pensioner and things got very difficult for her, hence it was difficult for me. There were times when I had to go to various different churches for a plate of food. At times, I had to go to friends' houses to ask them for a few dollars or a plate of food. It was very distressing and very hard.

It was only with the help of David Lammy that eventually I was able to get back to the UK, in September of this year. That is in spite of the fact that I was here since the age of six. I did all my schooling here. I didn't go to school in Jamaica; I went to school here. I considered myself to be British. Although black and born in Jamaica, I always considered myself British. When I was refused entry in 2007, it blew my world apart. It took me—sorry.

Chair: It's okay. Take your time.

Vernon Vanriel: I did an apprenticeship as an electrician here. I had my own company, VJ Electrics. I was registered as an NICEIC-approved electrical subcontractor, after spending several years at college—Tottenham Technical College, Turnford Technical College and Southgate Technical College. Although I wasn't naturally blessed academically, I put in the hard work and I qualified. As a top-class electrician, I employed people to work for me, and I worked for councils, and for London and Quadrant, which does a lot of housing for poor people. I did a lot of its work via Watkins Interior. I even did the electrical work for Hendon Police College, and for several other places, such as Edgware DHSS.

Then, to find that I was refused entry to the country that I had grown up in, and that I had loved so dearly, was just mind-blowing to me—to be told that I wasn't allowed back to the country that I called my home, and still do, even though I was born in Jamaica. But the United Kingdom is my home. It's where all my family is, and it's where my children are—at least two of my children. Not being allowed back destroyed the relationship with the children I have here. We lost touch. I lost touch with my friends. I lost



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touch with Jonathan here, who is a very good friend of mine. It just ruined my life, basically.

I wanted to be a coach, but the 13 years, one month and 10 days that I've spent has put a big dent in that, because obviously I'm not young—I'm not old as such, but at 63 I'm not exactly a young man anymore. The best years of my life, as a coach, have been taken from me, having been trapped out there for so long. My friends, my children—I've got grandchildren that I don't even know. None of you would realise the mental traumas that it's caused in my life.

Prior to going to Jamaica, I had suffered with depression for several years, and none of this has made it any better for me.

Chair: We want to ask about what has happened since you got back. Ms Mahmood?

Q2 **Shabana Mahmood:** Yes. Thank you, Mr Vanriel. How have things been for you since you have been back? What sort of help or assistance have you been offered? Have you been assisted—

Vernon Vanriel: None—categorically no help whatsoever. The only people who have helped me are David Lammy and his caseworker, Leona. They have kept in contact with me. But the Home Office itself, they have not even said, "Mr Vanriel, we are sorry for what happened to you"—I haven't even heard that from them, which I think is appalling. It's terrible.

Q3 **Shabana Mahmood:** What paperwork have you had to resolve your legal status?

Vernon Vanriel: I have been issued with that biometric—

Shabana Mahmood: A biometric residence permit?

Chair: The plastic card?

Vernon Vanriel: The residence permit, yes. That's about it. I've had that. Duncan Lewis, my solicitors, have put in for my citizenship and, I think, made applications for a British passport, or made my intention to apply for a British passport known, but how far that's got I don't know.

Jon Feld: May I add something? I have known Vernon for nearly 20 years. He is modest enough to say that he was a championship-class boxer who broke the mould—as reported in the *Daily Mail* many years ago; we have the cutting—for black fighters selling tickets. After he pioneered it, black fighters sold tickets to support boxing shows, as did the white fighters, and that was a moment of history in itself. So he is being very modest about his achievements.

One of the things that struck me when Amelia Gentleman originally conducted the article in *The Guardian* that came to everybody's attention, and we in the boxing community tried to find Vernon—we came up against a wall of silence back in the day. And I don't feel that that wall of silence has ever been eroded, and it is not eroded to this day either. That is something that the Home Office should look at very carefully as a result of



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what has happened with Mr Vanriel and many others, because since he has come back he has had—if you look at the articles, you will see this—the good grace not to blame the Home Office and not to blame the Government.

He poured praise on the British way of life and the British system. That is prevalent and as clear as day in all the articles that have ensued. So the fact that he has not had one engagement of any substance from the Home Office in the months that he has been back is a sad indictment of the Home Office and their complete lack of engagement with people such as him.

I take this point one stage further, because this is not just about Mr Vanriel; it is about hundreds of thousands of applicants. The lack of engagement from the Home Office with people such as Mr Vanriel and many other hundreds of thousands of applicants is costing the taxpayer an enormous amount of money. If the Home Office would engage and be more human, at no cost to themselves, this would save an awful lot of money and an awful lot of distress—the distress that you are at the moment witnessing.

In those 13 years—13 years that Mr Vanriel cannot get back—he could have established himself as a world-famous boxing coach, coaching world-famous fighters and earning a living to help pay for his son's problem in Costa Rica, which he cannot help out with. He cannot help out the members of his family. That is the sort of situation that is handed down by something like this. I don't have any political affiliations; I have come here as a McKenzie friend, effectively. But I have known this man for many years, and he should have been regarded as a British citizen. He was not; he was regarded as totally the opposite. The Home Office must engage.

Chair: And we are certainly going to move on to that with our second panel.

Q4 **Shabana Mahmood:** Mr Vanriel, I know that this is difficult for you, but thank you so much for sharing your experiences with us. What is your hope now for what happens going forward? What do you want to see come out of all of this process and how do you want to see things change, after all the suffering you and others have been through?

Vernon Vanriel: For people like myself who have been here a long time and consider themselves British, I would just like us to be treated the same way as other British people—not to have any barriers on when they can go abroad or how long they can stay abroad for, but just to be the same as everybody else. And although no amount of compensation will eradicate the pain that I have felt, losing my children and grandchildren, at least give me something now, as soon as possible, so that I can get to Costa Rica to try to help my son, because that's the biggest problem in my life at the moment—my 20-year-old son being locked away in a foreign prison, with no aid whatsoever. That's a big concern in my life.

Q5 **Caroline Flint:** Thanks for coming along today, Mr Vanriel. It must be



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really hard. Probably on a number of occasions now you have had to repeat your story, which is incredibly traumatic, and your worry is carrying on about how you rebuild your life, even though you are back here, home in the UK. I just want to ask you this, to better understand the wall, the block, to anyone listening to your story during those 13 years. You said earlier that you had been back to Jamaica for a holiday and come back to the UK, but after you went back in 2005 for an extended stay, you then were not allowed back in. At any time before those visits to Jamaica were you given any information that should have caused you any worry about your immigration status when you would go to Jamaica and come back to the UK?

Vernon Vanriel: No.

Q6 **Caroline Flint:** Not at all?

Vernon Vanriel: Not at all, no. I think the visa situation came in while I was out there. You see, the requirement for a Jamaican to have a visa—

Caroline Flint: Don't worry. Take your time.

Vernon Vanriel: Sorry, what was I saying?

Caroline Flint: You were just talking about the change in the visa processes while you were out there.

Vernon Vanriel: Yes, that took place while I was out there, you see.

Q7 **Caroline Flint:** So you were between a rock and a hard place, basically.

Vernon Vanriel: Exactly.

Q8 **Caroline Flint:** When you tried to come back into the UK in 2007 and were refused, what did you do, or what did your family here in the UK do—I know your sister Lynette has been involved—to try to get you a hearing about getting back to the UK?

Vernon Vanriel: I contacted my sister, who in turn contacted David Lammy. To be honest with you, Madam, my memory is not as wonderful as it used to be.

Caroline Flint: No, that's fine.

Vernon Vanriel: I was in such a state when I was refused. Can you imagine? I had lived here all my life. I went out on holiday, and when I tried to come back I was told, "You can't." You would not believe it.

Jon Feld: The family were met with a wall of silence. That is the issue.

Q9 **Caroline Flint:** That is part of what I am getting to. I have been an MP for nearly 22 years. I know that some cases are resolved quite quickly, but I have to say that some have taken years. Part of it is about getting a Department or organisation to listen to what you are trying to say, rather than say, "Computer says no."

Vernon Vanriel: Well, exactly.



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Caroline Flint: Sometimes that can take lots of effort. Mr Vanriel, from what you and your friend Jon are saying, it seems that every time you tried to approach the Home Office or somebody, they were not listening.

Vernon Vanriel: That is correct—look at my sister. That is it in a nutshell, categorically.

Jon Feld: We tried as well—me and other people who are friendly with him—but it was impossible. I know that there are cuts now and there are excuses for that, but at the time there were not. It was impossible to get information about Vernon's whereabouts and existence. When the article from Amelia Gentleman came in the press, I got a text immediately from a friend of ours that said "Holy Mother of God!"

Q10 **Chair:** Mr Vanriel, what happened about your housing? Where were you living before you went to Jamaica?

Vernon Vanriel: I was living in a council property in Northumberland Park.

Q11 **Chair:** And presumably you lost the tenancy on that while you were in Jamaica.

Vernon Vanriel: Yes.

Q12 **Chair:** So what is your housing situation now?

Vernon Vanriel: I am staying with my sister Lynette and awaiting a council property.

Q13 **Chair:** So you have been accepted for housing.

Vernon Vanriel: Yes. In all fairness, they have given me priority. I was No. 33 on the list, which is exceptionally high, but I am still waiting.

Q14 **Chair:** So you are bidding for properties through the bidding system that most of our constituents go through.

Vernon Vanriel: Yes.

Q15 **Chair:** And 33 is the highest you have got. How long have you been bidding for? Since you got back?

Vernon Vanriel: Since I got back, yes. I would imagine that I have moved up the ladder a few pegs since, but I am still waiting.

Q16 **Chair:** Bidding gives you choice, but it does mean that it can be slower—I can see that. You have a roof over your head. What about your pension—were you still claiming it? I am trying to think—are you in receipt of a pension? No, you are 63.

Vernon Vanriel: Not yet. I am in receipt of ESA, which I share with my sister. I get 74 quid a week, which doesn't go very far.

Q17 **Chair:** And when you went out, did you have a job?

Vernon Vanriel: No, because as I said earlier, I suffered with depression after I finished, sadly. I am not afraid to tell you this: I have been in St



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Ann's psychiatric hospital on 13 different occasions. There were two or three times when I was in secure units for my own protection for up to six weeks at a time, so I wasn't very well when I left here. That is one of the main reasons I left as well.

Q18 Caroline Flint: You were vulnerable.

Vernon Vanriel: Yes. I went to clear my head—to get away. As you know, London can be a bit chaotic at times. So that was one of the reasons I went back there: to clear my head, and to spend some time with my young son. And then I was told, "You can't get back"!

Caroline Flint: Thank you very much, Mr Vanriel. As the panel continues, if there is anything else that you feel you want to say that we have not asked a question about, we really want to hear from you.

Chair: There may be things that the other witnesses tell us that you want to come in on as well, so please do indicate if you want to do that.

Q19 Caroline Flint: Let me move on to Mr Patel and Mr Berry. Why did this happen?

Chai Patel: Well, there is a long answer that has been explored, which has to do with a long series of changes to immigration laws and which you will have seen in many reports. The shorter answer is simply that there are a large number of people in the United Kingdom who have a right to stay here, but do not have a clear set of documentation to prove that.

Some of them might be British citizens. Some of them might be Commonwealth nationals in the situation that Vernon was in. Some of them might be nationals from other countries who, for whatever reason, have leave to remain, but simply do not have a clear piece of documentation that shows that.

One relatively new category includes certain people who have rights to reside here under EU treaties, for example, because they are caring for a British national child or a European child. They have a right under EU law—it is something that exists separate from anything else—but depending on how they entered the country, they may not end up with any clear documentation that shows that. It is a very wide category of people.

Q20 Caroline Flint: Interestingly, during this period—certainly from 2005 onwards and the election in 2010—one of the big debates in the country was about ID cards and how we identify who we are. Hearing what has happened—there was a change of policy in 2010—and given that that was a national debate, as well as a Westminster debate, it is hard to understand why there was not a discussion about undocumented individuals.

In my constituency, I have dealt with many people over the years who became refugees after world war two and for different reasons were not documented, as well as private adoptions that never led to documentation. This is about the Windrush generation, but it is also



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about a much wider group of people who, for different reasons, did not end up with documents. Where was the discussion about scoping out who might be affected or who is undocumented in our country?

Chai Patel: That is the second part of it—that is, what has happened in more recent years. I think a lot more of these cases are coming to the fore because of the changes that came in, largely between 2013 and 2017, although some of them happened a bit before that.

Effectively, after the debate we had on ID cards—in which we decided not to have ID cards—we created a system where people are required to show ID in order to access various basic services. The principle behind that is the principle of the hostile environment, although some of those things came in slightly before the hostile environment was announced by the then coalition Government. The idea is that if you want to target undocumented migrants who do not have a legal right to be here, one way of doing that is to require both private individuals, such as landlords and employers, and public services, such as the NHS, to demand that people show identification, which allows you to check whether they are here lawfully.

The problem, as I have just outlined, is that the majority of people who do not have clear documentation in this country do have a legal right to be here, so it is very hard to create a system that works effectively at targeting.

Q21 **Chair:** We don't need to go through it all, because the Committee has done a fair bit of work on foreign nationals and access to the NHS, and we made many of these points in our report.

Adrian Berry: It is not simply that they did not have ID cards as such; the United Kingdom administrative system works on the basis that you don't have ID cards. British citizens are not required to carry passports or identity cards to access services. It is a common law principle, if you like, that liberty exists in an open sense, without having to prove your entitlement.

Q22 **Chair:** Actually—let me be clear—identity cards were never about having to prove entitlement to something, under section 14 of the Act.

Adrian Berry: Indeed not. However, the inference from Ms Flint's question was that there was somehow a lack of consideration of that, in terms of people who have heritage overseas. But that was not the issue. In fact, the broad system of public administration is based on the idea that you don't have to prove your identity at various points.

Most people, whether they are British citizens or EU citizens—or people from the Windrush generation, who have statutory indefinite leave to remain under the Immigration Act 1971—don't have permission to be here from the Home Office; they simply have rights. Essentially, our culture is based on rights in public administration.

When you have the hostile environment policy and you now have to have documents without any documentary system, and you combine that with a



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net migration target where even removing and excluding people creates a tick statistically for bringing down the net migration target, you create the environment where an over-broad and rigid policy impacts on people like Mr Vanriel and leads to people being excluded. Couple that with the withdrawal of legal aid from immigration, including for advice overseas, and the removal of cheap and cheerful first-tier tribunal appeal rights for people like Mr Vanriel—if he had had access to legal aid, he could have potentially brought an appeal—and you end up with a system where you are manufacturing precarious lives.

- Q23 Caroline Flint:** I am a supporter of ID cards, and I put my hands up for that. If people had better documentation, it would help in a lot of different ways. Mr Berry, you cite this issue about undocumented in your evidence. Should you not have been lobbying, if not for ID cards, then for a publicly driven programme in a positive sense to give people like Mr Vanriel the assurance they needed, through whatever form of documentation, that they could travel without worrying about being stopped at the gate before they got on the plane? Shouldn't you have been doing that as an organisation? That is at the heart of some of the problem.

Adrian Berry: The question of people being able to elect to prove their status and having easy access to be able to do so is a good thing. That is the reverse, though, of the proposition that someone is obliged to carry something.

An EU citizen, for example, can choose to have a registration certificate or card. A person who has, by Act of Parliament, statutory permission to remain here indefinitely has a choice in whether to apply for something. What happens in a case where someone is excluded from the United Kingdom is that a Home Office decision maker located overseas looks at this person's history—they should be directed towards the fact that they have a statutory right to come back in—and refuses an application for an entry clearance visa as a returning resident when there is discretion under immigration rule 19 to grant it. They do so in the context of a culture of disbelief. That is what happened in this case.

- Q24 Shabana Mahmood:** The 1971 Act came into force in 1973. Everyone who has had anything to do with the immigration system since then has always known that there is a large cohort of people—up to 500,000, possibly more if you include their kids—who are here perfectly legally by Act of Parliament and who do not have the documentation because it was not issued by the Home Office. How do you account for the failure to deal with this systemic issue since 1973? What do you think explains it?

Chai Patel: It is simply the case that at the time it was not necessarily viewed as a pressing need. At that point, many people lived in the UK without really having many issues, although travel can be difficult in those circumstances. Since then, what we have seen over a number of years is that the Home Office cannot cope with the applications it receives and with issuing the documentation, let alone going back to older cohorts of people. We have seen that—even in the wake of all the media attention that has



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been put on these cases—with, for example, the Home Office's current determination to restrict its actions and review of past cases to Caribbean cases, when clearly a much broader group of people will be affected.

To add one thing on the question of whether ID cards might have solved this problem, if we had a system where people could easily get access voluntarily to the ID they needed and not have to pay vast Home Office fees and navigate those systems, that might well have helped, but the underlying problem with this is simply Home Office decision making and dysfunction.

Ultimately, you have a system where more than 50% of appeals against Home Office decisions—where people have a right of appeal and manage to get lawyers to help them—are successful. That is not a Department that could be entrusted with determining as of now the rights and entitlements of the people currently resident in the UK. The underlying problem of legal status and legal rights and whether they are recognised is not as simple as the documentation.

A lot of it is to do with what the people in charge of determining those rights do day to day, whether there is enough independent scrutiny of those decisions, whether the people who are navigating that system are given the assistance that they need to do that and the independent legal advice that they need to stand up for those rights and whether, when the Home Office or other Departments get things wrong, clear processes are in place to fix those decisions and to give adequate redress. None of those things exists.

Q25 Chair: May I turn to Mr Berry on the point about legal aid? We have looked at this a bit as a Committee, although I wouldn't say we are experts. Have you seen, from your perspective, a difference in issues affecting people where legal aid has not been as widely available, and can you explain a bit about how that has worked?

Adrian Berry: Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, there is a withdrawal of legal aid, even for basic advice, from the whole field of immigration, apart from for refugees and for unlawful detention cases, so the sort of advice that you might get in a law centre or from a high street solicitors firm with a legal aid contract simply can't be given. I am talking about basic, entry-level advice to make applications for time limits documents—the sort of document that Mr Vanriel would have expected.

That, taken together with not having a right of appeal against a refusal by the Home Office—whereby you can go to the first-tier tribunal and have a half-hour or one-hour hearing with an independent judge—means that there is not an easy way to resolve it, so what you end up with is inquiries, compensation schemes and public apologies by the Home Secretary. That is in the context of something that, if we had good administration at a local and easily accessible level and funded in that way—these cases would go there.



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The first-instance decision making would be better, because if you have the judge on your shoulder, if it's a tribunal judge, you keep more of an eye on the quality of your decision; you take great care with it. If you have a culture of disbelief in the Home Office and an obsession with net migration targets, that does not affect an independent judge, who can look at it. And if there is funding for basic advice—we're not talking about High Court litigation; we're talking about first-instance tribunals—you can resolve these issues as and when they occur and you don't end up with a gentleman like Mr Vanriel spending 13 years outside the United Kingdom.

- Q26 Shabana Mahmood:** We have this devolved immigration structure whereby private landlords, employers and other people are making what are essentially immigration checks on our citizens. What is your impression, Mr Berry, of what is happening on the ground in terms of people being caught by that unfairly—people of the Windrush generation and other Commonwealth citizens being denied housing and struggling to get into work? What is your feeling about what is happening on the ground?

Adrian Berry: There are two sides to that. First, in the private sector, employers—or even public sector employers—but also private landlords, with the civil penalty regime, are being made to be, effectively, local immigration enforcement officers, in the sense that they check documents and, if someone does not get accommodation because they don't have the correct documentation, they risk homelessness. They are effectively facing penalties—£3,000 for a landlord and up to £20,000 for an employer—which mean not only that they will check documents, but that they are less likely to offer accommodation or to go through the process of awaiting confirmation of status and confirmation of documents for people from, let's face it, different sorts of backgrounds.

- Q27 Shabana Mahmood:** So BME citizens trying to get housing are being filtered out of the—

Adrian Berry: Including British citizens.

- Q28 Shabana Mahmood:** Yes, British BME citizens are being filtered out of the process, because that is easier to do than going through all the checks—

Adrian Berry: There is a chilling effect on the willingness to give tenancies or jobs initially, unless you can prove your status, but then some people are refused as well, so it is twofold.

Also, if you look at Mr Vanriel's example and what happens in the public sector, he is still on the waiting list for a social housing tenancy, having been excluded from the United Kingdom for 13 years. He may be No. 33 on the list, but the Home Office ought to be funding his accommodation now, not in three months' time or six months' time. He had a secure tenancy with his local authority and he lost his accommodation because of this policy—that is appalling.

- Q29 Chair:** I want to move on to the compensation scheme. Obviously, we will



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be hearing from the Home Office later, but it is not yet finalised. Mr Patel and Mr Berry, if you agree with each other, you can say you agree; you don't have to repeat what has been said. What do you think should be included? There will obviously be a debate about whether the scheme is set up on a formula, or bespoke for every individual. The former has the advantage, I guess—you tell me—of being swift, with people getting the money before, to put it crudely, they might die; the other might be fairer.

Chai Patel: Courts give people compensation all the time. In personal injury clinical negligence cases, there are already bands of compensation for different kinds of injury, but there is then often a consideration of individual circumstances.

In terms of the general principle that we would recommend, it is that all injury suffered by someone, whether financial, physical or mental, should be compensated in accordance with the sort of schemes for civil compensation that we already have in place for all of those kinds of injury, and it should not be restricted to any; it should simply be all injuries that flow from the wrong—

- Q30 **Chair:** Let us categorise some of them—that would be loss of pension perhaps or loss of housing, but what about for things that are hard to quantify financially, such as access to your family or your social networks, the fact that you have been unable to engage in normal, human, family issues and situations? How would you recommend that that is managed in a compensation scheme?

Chai Patel: Those things are taken into consideration in some kinds of legal cases; Adrian might want to say a bit more about that. For example, we have ways of compensating people for unlawful detention where some of those things come into play or we have compensation under the Human Rights Act for human rights violations, which again sometimes involve those kinds of injuries. Some of that is actually very low, and the way that is calculated is low.

It might well be right for the Government to set out guidelines for what level of compensation is appropriate. Where people are satisfied with those guidelines, that should make the process simple and quick. However, what is essential is that people's circumstances are individual and the full extent of loss should be compensated. Therefore, when someone does not think that the guidelines meet the needs of their case, they should have an opportunity to argue for a different level of compensation in front of an independent tribunal.

- Q31 **Chair:** Will Mr Berry add to that? I am particularly keen to hear what you have to say about the timescales involved. Mr Patel has outlined what I suppose might be the ideal world, but how long will that take, and is that realistic given the age profile of a number of the people we are talking about?

Adrian Berry: I am quite surprised at how long it has taken for the compensation scheme to be set up—it is still not up and running. There is no reason why there cannot be some form of interim payment while the



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precise details of schemes are worked out, particularly a proper and effective hardship fund to pay for accommodation. If there were issues about acquiring benefits while people are seeking work, or even in-work benefits for people on low incomes, you would expect the Home Office scheme to be up and running to supply that now, in the same way that sometimes, for the victims of trafficking, you can have schemes administered outside the normal benefits regime.

In terms of compensation levels, there are things such as national insurance contributions missed—it is not just loss of earnings—so a state pension entitlement. There are questions about all kinds of things. We have reference to loss of social relations and frustrated family life in—there are approaches in—damages law, where you can have aggravated and exemplary damages, such as by looking at harsh treatment—

- Q32 **Chair:** That is fine. I can see that there are legal solutions, but those can take a long time. We have looked at some NHS cases in Committee—not individual cases, but the trend—and there can be very long timescales for settlement.

Adrian Berry: Yes. There needs to be a process that can pack that into a short space of time. If you have adequate interim payments, you can resolve the fine detail of how much it is later on.

- Q33 **Chair:** That is your main recommendation: that there is an interim payment. May I turn to Mr Vanriel? There is a hardship fund already. Have you had any payments other than the state benefits that you are receiving?

Vernon Vanriel: Not a dollar, not a penny.

- Q34 **Chair:** Have you been given advice about where to get any?

Vernon Vanriel: I have made several attempts to ascertain hardship funds from the Windrush taskforce, but to no avail.

- Q35 **Chair:** Who paid for your flight back to the UK?

Vernon Vanriel: It was the Home Office.

- Q36 **Chair:** The Home Office paid for that. So you have had so far a flight and your benefits, and you are waiting for housing, but nothing else.

Vernon Vanriel: Nothing else, no.

- Q37 **Chair:** Maybe Mr Berry's colleagues can help to take up your case. Before I go to Sir Geoffrey, one of the issues that some of us have picked up in our constituencies is the wider remit—Mr Patel, you touched on this earlier. The Windrush generation has become the name of it, but there are a lot of other Commonwealth citizens. In a letter today from the Secretary of State to the Chair of the Home Affairs Committee, Yvette Cooper MP, there is a list of other countries affected, including a number of west African countries. Are the Home Office doing enough to publicise that wider groups are affected, other than those who have come from the Caribbean?



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Chai Patel: No. To some extent, that is simply that they have not done enough to publicise it in terms of funding. To another extent, it is the terminology that we use. Windrush has been, while helpful for campaigning, probably quite unhelpful in terms of making people aware of whether or not they might be entitled. We have certainly heard of people who think that they cannot be Windrush because they are the wrong nationality, or that they cannot be Windrush because they were not on the Windrush itself. More effort needs to be made to broaden that out, and similarly, more effort needs to be made by the Home Office to investigate those cases.

Q38 **Chair:** Mr Berry, a number of your organisation's members will have dealt with individual cases. Do you have anything to say about those not from the Caribbean—those others affected from the wider Commonwealth?

Adrian Berry: Yes; it is basically about post-war migration, full stop. You can divide it into Commonwealth citizens and what were called aliens—as in non-Commonwealth citizens who were foreigners on that basis—but it needs to be understood that a lot of people came here under a very liberal immigration regime. If they were not coming as British subjects, with common law right of abode in the UK, they were coming under a completely different set of rules that were far more permissive than they are today. You will find not only people from Canada, South Africa, south Asia and so on, but people from other countries that are not Commonwealth states. Even the regime after 1973, under the immigration rules, was completely different in tone and temperament from the one we have today. The guidance to immigration officers was as to the sorts of areas where they might like to give permission to enter, rather than today's rigid rules with prescriptive rules of evidence. There are lots of people, even after 1973, who would be coming here and who would need to be captured by that.

Chair: That certainly chimes with my constituency case.

Q39 **Sir Geoffrey Clifton-Brown:** Have either Mr Berry or Mr Patel had any experience of the new taskforce? Has it improved the situation at all for your clients?

Adrian Berry: Only through the membership organisations that I chair. There is very little anecdotal evidence of how it is working. I was looking at the numbers today in the letter to Yvette Cooper MP from the Home Office and I was quite surprised at how few cases have been processed.

To a certain extent, it is a self-selecting population. If you think about the sort of people who are captured by this issue, it is when somebody gets excluded from the United Kingdom or they apply for state pension credit, a travel document or a benefit that has a right to reside test imposed upon it that they realise it is a problem for their lives. So we do not have a group of Windrush generation people who are all champing at the bit to seek relief. It only happens in your ordinary life—if you are not a politician or a lawyer—when it matters to you. To some extent, the problem is an evolving one. As and when people need something from the state to which



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they are entitled, they then realise that they have an issue that they need to resolve.

Q40 Sir Geoffrey Clifton-Brown: Could more be done to publicise its existence?

Adrian Berry: Yes. I am pleased that it is identified by Windrush to capture some of the population and class of person to whom that refers, but it does need to be broader than that. There needs to be an understanding that, in a hostile environment, there are also people with rights—using that as a badge for the set of policies that are currently being applied—who transcend that, and they need to have an easy way to understand their rights. As long as you impose penalties on employers and landlords for not having documents, and couple that with people who have rights, you are simply manufacturing problems on a continuing basis for those people.

Q41 Chair: I do not know whether you have any experience of the vulnerable persons team. It is outlined elsewhere, but it is also referred to in the letter to Yvette Cooper from Sajid Javid MP, which says, "The Taskforce has a dedicated vulnerable persons team in place to provide help and advice where it is identified that a need exists with regard to safeguarding and vulnerability." Have you had any experience of that, Mr Berry, or have any of your members, so you can shed a light on it for us today?

Adrian Berry: No.

Q42 Chair: I wonder whether Mr Feld would know whether Mr Vanriel has had any contact from this vulnerable persons' team?

Jon Feld: No.

Chai Patel: No.

Q43 Chair: Okay. Have you had any contact from the citizens advice bureau, which, according to this letter, is providing bespoke professional advice, including debt advice, to those experiencing immediate financial problems?

Jon Feld: No.

Adrian Berry: If you are a potential victim of the current regime you would go to your local citizens advice bureau, your local law centre, your high-street solicitor—

Q44 Chair: You will get it anyway.

Adrian Berry: Well, no, you won't, because there is no legal aid. However, on the idea that they are all focused on the fact that there might be one CAB in one part of the country that would be able to help you, if you are dealing with members of society more broadly, they want to act as and when a problem comes up.



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They will go locally if there is something, and because there is not funding for that sort of advice, it does not exist. If you look online, you have to go to the Windrush page of the Home Office website. I spend far too much time on the Home Office website, but a lot of people do not.

Q45 **Chair:** You are unusual in that respect, I think it is probably fair to say.

Adrian Berry: Yes, but it is a serious point. You have to be able to find it and to go to it.

Q46 **Shabana Mahmood:** Then you have to understand what it says, which is a significant challenge.

Adrian Berry: If we just touch on the issue of the landing page for landlords who face civil penalty regimes, there is no reference to Windrush on the page that landlords go to.

Q47 **Chair:** I need to bring in Mr Feld on this point.

Jon Feld: Thank you—I really appreciate it. The situation of legal advice and everything else is a very germane point, because the Government have deregulated the legal business in many ways, providing public access barristers and everything else. It is going that way, but in the immigration industry it is very difficult for people like Mr Vanriel to get legal advice.

You have to be OISC-accredited to be a legal adviser. Therefore, lay people who are perfectly capable of providing legal advice to people like Mr Vanriel are prevented from doing so. I think it would be highly reasonable for the Government to look at the OISC, and see whether that can be deregulated to allow competent people, who might be accountants and in very good professions, to help people like Mr Vanriel.

On the ground, because that is where I am, there is no advice available. Immigration law is incredibly expensive and people like Mr Vanriel cannot afford it. The people who can offer the advice pro bono are not allowed to do so because they are not OISC-accredited. If you can address that problem and deregulate it, I promise you that cases like Mr Vanriel's and many more like it will disappear, because they will have competent advice dealing with the Home Office and everybody will get on, like in other aspects of the legal sector where that happens.

Chair: Certainly, speaking as a constituency MP, not as Chair of the Committee particularly—Committee members may agree with me or not—I see this all the time in my constituency surgeries. That lack of advice at the beginning becomes very costly down the line, in human terms and for the taxpayer.

Q48 **Gareth Snell:** I have just a brief question to Mr Feld and to you, Mr Vanriel—thank you very much for sharing your story and testimony with us this afternoon. The fundamental basis of the way that Government works in this country is that people have some element of faith and confidence that Government will ultimately do the right thing. As someone who has been at the sharp end of what has been a horrible series of circumstances, do you have faith and confidence that in the long



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term the Government will do the right thing by you?

Vernon Vanriel: Yes.

Gareth Snell: That is reassuring in some ways.

Q49 **Chair:** Mr Vanriel, I admire your confidence. I just wanted to touch on something in the letter from the Home Secretary. It says on the final page that the Department has been leading a series of focus groups at locations across the country specifically seeking to capture the views of hard-to-reach communities in response to the consultation on the compensation scheme. I wonder whether any of our panel has had experience of those focus groups, or knowledge of any of them happening, or been involved in them. Presumably you have submitted evidence to the compensation scheme consultation?

Chai Patel: We have. We have been asked.

Q50 **Chair:** And are you aware of any of these focus groups?

Adrian Berry: I am not aware of the focus groups, but we have responded to the consultation.

Q51 **Chair:** To be fair, you may not be aware. It is not necessarily a criticism that you are not aware; I just wondered whether you were.

Another issue that I, again, pick up as a constituency MP is that a lot of my constituents are now being asked for biometric residence permits when their employer does a routine employment document check. They could have been working for that employer for many years; the policy that an employer needs to comply with could have changed, so that they have to do this every two or three years, or whatever.

They have a bit of paper that is folded up in their wallet from the Immigration and Nationality Directorate that is very dog-eared. It is not a secure document, but was all that was provided at the time. That has got them a job for sometimes 20 years or more. Then they have a BRP, and then there is a very long waiting list. I have been writing to the Minister about this. From what she has not told me—she is not answering questions very directly—no one is advised that they need a biometric residence permit until, as you highlighted earlier, Mr Berry, it comes up in the normal course of their life. Am I right in that? Do you think that could be a problem looming in the future for some of the people we are talking about, and others?

Adrian Berry: There have been a huge number of immigration documents over the years that amount to the same sort of thing. If you have permission to reside indefinitely, you might have one of three or four immigration stamps and a passport. There might be the letters "VIPP"—visa in previous passport—in some documents. There are vignettes, stickers, biometric residence permits—you can collect the set, but effectively employers don't, generally.

Chair: Collect the set and what is the reward?

Adrian Berry: Yes.

- Q52 **Chair:** What would you recommend, because that is the reality for some of us in constituencies like mine? I think I am one of the six biggest customers for the Home Office on immigration issues as an MP. I see it day in, day out. We will ask them later, but do you think they have the capacity or the knowledge of who to instruct and write to in order to get the up-to-date document, which would make life a lot easier?

Adrian Berry: The old document should work, of course. The guidance should contain a picture of it, so that the busy employer can have a quick look and say, "Ah yes—that is one of those indefinite leave documents that they issued in 1984" or 1978.,

- Q53 **Chair:** It doesn't seem to work with employers.

Adrian Berry: No. And of course they are very busy, and they do not have the natural interest in this that others have. In a sense, then maybe a free update document ought to be provided. If you have indefinite leave—

- Q54 **Chair:** Do you think they would have records? I suppose that is my point.

Adrian Berry: The Home Office?

Chair: Yes—records of all those people who have those little pieces of paper from 20 years ago.

Adrian Berry: It is hit and miss, in my experience, in terms of subject access requests for old files. Where indefinite leave was granted in the 1970s, there ought to be a record of it. Often there is, but not invariably.

Chair: There was a very big fire at one of the immigration centres.

Adrian Berry: There have been fires, floods in basements, things mouldering away and things actually being destroyed, as we know from the Windrush situation with landing cards. There are real problems with that. The way to resolve it is not to make the bearer pay for the new document, but to say, "If you have indefinite leave in an old document, we will give you an up-to-date one in addition to that old document, which you may well cherish as your originating document for belonging to the UK." They should give a new BRP on top, but not penalise employers. You could adjust the guidance to employers and to when civil penalties would be imposed to create a more beneficent environment at the same time.

- Q55 **Caroline Flint:** It is very interesting how you phrase that. We have had a very negative framework. Even the terms "hostile environment" and "compliant environment" are off-putting. You seem to be saying that there are things that the Home Office and Government could do to make this, for want of a better word, a much more positive environment that is about helping people to regularise their documentation and getting a free up-to-date document alongside what they have had before. It could be done in a very different way to reassure people that they have the right to stay here and be here and that this is not something they should be



afraid of.

Adrian Berry: If you have a right to be here, it should be made clear that you will not be treated as if you are unlawfully present. You are not regularising the situation; you are simply getting proof of the thing you already have. That should be made very easy and very straightforward for people who have rights, regardless of who they are, to ensure that they do not suffer this difficulty in accessing all aspects of public and private life for want of being able to vindicate their status.

- Q56 **Caroline Flint:** Mr Vanriel's flight was paid by the Home Office to come back to the UK. It has been accepted that he absolutely has the right to be in the UK. The fact that it would seem that he has not had any other approaches to understand his situation being back here—is that common, from what you are hearing, for those people who have had decisions made that were wrong and who have the right to be here? Is that happening?

Adrian Berry: My understanding is that the typical experience is not to have any further contact. There are examples where people have been able to come to the UK at short notice in the past. Provision has been made, for example when British nationals came from Zimbabwe during its difficulties a few years back. They amended homelessness regulations so that people were immediately eligible for homelessness assistance without having to satisfy the habitual residence test. There has been no such adjustment to the means-tested benefits regime or homelessness assistance. When the Lebanese civil war flared up a few years ago, there were equivalent adjustments for those people. Nothing like that has happened for the Windrush generation, and I am extremely surprised by that. Nor have there been hardship payments, never mind compensation. You should not be on the waiting list and you should not be on ESA alone. You should have some other financial package to help you while you reintegrate now.

Chair: I remember the Zimbabwean situation.

Adrian Berry: Those examples show how quickly there can be a response.

Caroline Flint: It can be done.

Adrian Berry: Exactly.

Chai Patel: I have seen the new hardship fund that the Government have announced. It seems to envisage payments being made only in exceptional circumstances. It seems to be a very high bar that someone will need to meet. Not only do they have to show a compelling need, but on top of that is an exceptionality test. That seems inadequate to us.

- Q57 **Chair:** You will need advice if you are going to go through a complex process. Some people will have been through the mill and perhaps will not be able to do that.

Mr Vanriel, as we are coming to the end, would you like the final word?



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After this, we have some senior officials from the Government and the Home Office in front of us. You have clearly given your testimony today, but do you have any message for them?

Vernon Vanriel: I don't really have a message. I have to say that despite everything that has happened to me, I am categorical that the United Kingdom is the best place in the world for me to be. I am very proud to be here. I am very proud to be British. I want to thank the British public and the Governments for what they have done for me. I came here. I was able to do an electrical apprenticeship. I was able to train to box as a professional fighter. I had my own company, VJ Electrics, which went to various colleges here. I take my hat off to the United Kingdom. I love the place, despite what has happened to me. Thank you.

Chair: Mr Vanriel, I speak for the Committee in thanking you for coming to us. We are impressed by your positivity after everything that you have been through for a number of years. We wish you all the best. You have a good MP working for you in terms of supporting you with housing and everything. We hope that you will soon have a permanent home and are able to get on with the rest of your life. Thank you very much for coming.

You are all very welcome to stay for the next panel. The transcript of this and the next panel will be up on the website in the next couple of days, uncorrected. It goes straight up there and is sent to you as witnesses as well. If you want to stay, there will be some seats available behind after the change of witnesses. You are welcome to stay, but either way we will ensure you get a copy of our Report, which will be coming out sometime in January or February next year.

Examination of witnesses

Witnesses: Sir Philip Rutnam, Shona Dunn and Diana Luchford.

Chair: Welcome back to the Public Accounts Committee on Monday 17 December 2018. We have just heard evidence from those who work directly with or, in the case of Mr Vanriel, are directly affected by the problems in the Home Office in dealing with those who arrived, in particular from the Commonwealth, prior to 1973.

We now have our second panel in front of us. Going from my left to right, the first is Shona Dunn, who is the second permanent secretary at the Home Office. Welcome, Ms Dunn. I think it is your first time in front of us.

Shona Dunn: It is.

Q58 **Chair:** Welcome to you. It is good to see another woman in the Home Office. Sir Philip Rutnam is the permanent secretary at the Home Office and a regular here, and Diana Luchford is the director of the Windrush reform programme at the Home Office and is another senior woman civil servant. That's good; we are keen to keep promoting good women in the Government and we hope you will give us some good evidence later. Ms



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Luchford, I think this is your first time in front of this Committee as well.

Diana Luchford: Yes.

Chair: Although I think you have been in front of other Committees. I think all of you were in the room for the previous session. I thank you for that, because I think it's important that you have heard what those witnesses had to say. I will ask Shabana Mahmood to kick off the questioning.

- Q59 **Shabana Mahmood:** I welcome the witnesses. Following on directly from what the Chair said, you were all in the room and, like the rest of us, heard Mr Vanriel's harrowing testimony about all the things that happened to him. Having failed him once by not allowing him back into his own land, why is your Department still failing him, Sir Philip?

Sir Philip Rutnam: Can I just start by saying I was absolutely appalled to hear the account that Mr Vanriel gave of his experience, as I have been appalled by reading and hearing other accounts of people who have been let down so badly? In my 30-odd years of public service, I had never seen an episode like this. You ask why he is experiencing the treatment that he is now. I would also like to say that I am very sorry to Mr Vanriel—to offer a personal apology for the experience that he has endured. I share the admiration of the Committee for his positive spirit.

I believe he is in touch with the Windrush taskforce; I believe that we have been in touch with him on a number of occasions. We have a caseworker from the vulnerable persons team, which the Chair mentioned earlier, who is in regular touch. We will obviously follow up; having heard what he said this afternoon, we will follow up straightaway. We will be in touch forthwith to see if there is any further support that we can provide, but my understanding is that we are in touch with him, in addition to having arranged the returning resident's visa, the biometric residence permit and the flight.

- Q60 **Chair:** Can I just ask Ms Luchford this? You are responsible for the Windrush reform programme. Does that mean you are also responsible for the taskforce and the vulnerable persons group?

Diana Luchford: They are not directly within my line management, but they are part of my broader team who are engaged in delivering on the Home Secretary's commitments.

- Q61 **Chair:** Sir Philip says that he is confident of people being in touch. I'm not being too cynical, but I have been a Minister, and I have sometimes been told that someone has been "in touch". That can mean different things. Do you know, Sir Philip or Ms Luchford, what that actually means? I don't want to go too much into an individual case, but you may have been briefed that there had been contact. Contact is different from actually resolving a problem.

Diana Luchford: I have met Vernon Vanriel before. I met him at the Black Cultural Archives in Brixton, when I and the Immigration Minister went to one of the focus groups that you have heard described. I also



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know that the taskforce have spoken to Mr Vanriel 10 times. Those have all been documented. The most recent was on 26 November. I think there may be, perhaps, some confusion in his mind with the terminology that we use, because he has a named point of contact there, who I won't name, but I do know her name. He may not associate that with phrases like "the vulnerable persons team", but I am confident that we are fully in touch with him. We arranged both his flight home and ground staff attendance for his return. The vulnerable persons team helped him with his application for benefits, which are now being paid. They encouraged him to register with a GP. They have also been trying to help him with his accommodation.

Q62 **Chair:** And this is what you would say is normal activity for the vulnerable persons group?

Diana Luchford: Yes, that's the sort of thing they will do.

Chair: I don't want to go too deep into an individual case. Ms Mahmood, carry on.

Q63 **Shabana Mahmood:** And I don't want to go deep into the individual case, but just on that point about housing, you have said they are "trying to help him with his accommodation". What is the responsibility of this group for vulnerable people, in relation particularly to housing, especially where somebody had a secure tenancy before they were unfairly prevented from coming back home?

Diana Luchford: Clearly, they cannot direct local authorities or other housing associations to provide people with accommodation, but they will work to liaise between the applicant and local authorities to ensure that the local authority is aware of what that individual's status is, etc.

Q64 **Shabana Mahmood:** Of the people who have now returned to the UK as part of the Windrush programme, which are the main local authorities that people are now choosing to reside in?

Diana Luchford: I don't have that information to hand, but I can provide it to you.

Q65 **Chair:** What about regions of the country? Are there any particular regions—

Diana Luchford: London and the south-east.

Shabana Mahmood: My expectation was that you would say London local authorities. What consideration have you given to entering into some sort of understanding with London local authorities, to which some of these residents are returning, about their priorities and the necessity of them getting beyond No. 33, which any of us who deal with housing case load know is nothing? It is not going to help you one little bit unless you are in the top three; then you know that your bidding is going to be successful.

What consideration have you given to talking to some of those local authorities, to which you know that a large number of these people will



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be returning, about what arrangements might be made available in order to help to alleviate the accommodation uncertainty that these people are facing?

Diana Luchford: The way that we would partly do that is through our cross-Government taskforce approach, because clearly housing is the responsibility of the Ministry of Housing, Communities and Local Government. They are on our cross-Government taskforce, and we have asked for their help to liaise with local authorities.

Q66 **Gareth Snell:** Every time I hear “cross-Government departmental taskforce”, what I actually hear is kicking the buck to somebody else to be responsible for it. Who is actually going to be responsible for sorting out, in the case of Mr Vanriel, the housing situation that he finds himself in across your cross-Government taskforce?

Diana Luchford: Nobody within the cross-Government group would personally be responsible for that because only the local authority actually has the powers to do that.

Q67 **Gareth Snell:** I understand that. So you have abdicated responsibility for that to the local authority, and that is the end of it as far as your taskforce is concerned.

Diana Luchford: No, we have not abdicated responsibility, but we are working together within the powers that we have.

Sir Philip Rutnam: Our experience is that our vulnerable persons’ team has had a good record of delivering practical results for people who need help. Moving somebody up the housing waiting list is beyond our powers, but actively doing all we can—

Q68 **Chair:** Sir Philip, you are talking to a group of MPs who are dealing all the time with homelessness cases. I suppose I speak as a London MP, but I know that other colleagues have told me that they have similar challenges. As Ms Mahmood said, 33 is almost hopeless; you have to be in the top 10 to have any chance of getting a housing offer any time soon.

You cannot direct a local authority, and we understand that there are huge pressures—it is Haringey Council, I think, in that case—on housing. Have you thought about any other alternatives to providing housing to people that takes them outside the local authority route? Is any other option being considered, because you could wait forever on the waiting list? There is always somebody, potentially, more vulnerable even than someone from the Windrush generation who has been through this experience.

Diana Luchford: It is certainly something that we can look at, but it is not something that we have specifically done.

Q69 **Chair:** When you say “good”, Sir Philip, what do you mean by good results? How many months have people typically been waiting?



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Sir Philip Rutnam: I don't know. I cannot speak on housing. In terms of practical work with DWP on benefits claims, I think we have managed to see good results coming through, as just one example.

- Q70 **Gareth Snell:** I think it would be helpful for the Committee if you were able to write to us and explain what you meant by good results as a result of this taskforce. How many people were assisted with a DWP claim? How many people are receiving benefits?

On housing in particular, Ms Luchford, if Mr Vanriel was still languishing at No. 33 in six months' time, would you consider that to be acceptable?

Diana Luchford: No, of course not, but we can only act within our powers and encourage others to do so, and provide them with the support that they need to respond to individual cases.

- Q71 **Anne-Marie Trevelyan:** With the Grenfell disaster, we have given powers so that housing can be purchased and allocated for those families who had an awful trauma hit them without any chance of them doing anything about it, much like those who found themselves unable to come back to their own country. Why have we not proposed that the Government look at providing that sort of funding framework for these people?

Sir Philip Rutnam: I can't answer that question directly. I have not made a comparison of Grenfell with this case. Obviously, with Grenfell it was overwhelmingly a very large number of people who were displaced at very short notice from housing, so there was an acute housing crisis in relation to those people.

I think I am right in saying that the vulnerable people we have come across in relation to Windrush have a much wider range of different needs. It may be getting healthcare; it may be housing; it may be benefits. We have been trying to respond to the needs that they have within the powers, leverage and influence that we have.

- Q72 **Anne-Marie Trevelyan:** But being thrown out of your country, and therefore not being able to come back to the house that you were in, is a pretty acute situation. Would you not want to be asking Government for similar powers to those you have asked for, and been given, to make sure that the Grenfell victims are rehoused? Is that not the same logic that should be applied for these people who have not been able to get back into housing because we threw them out?

Sir Philip Rutnam: I think it is about the scale of the case.

- Q73 **Anne-Marie Trevelyan:** Too expensive?

Sir Philip Rutnam: No; scale in terms of Grenfell being a very acute housing crisis for a large number of people. As I have tried to explain, in relation to Windrush, I think you have another quite large number of people, but with very dispersed needs, not just in housing.

Chair: Ms Trevelyan, you might want to take this up with the Minister as well.



Q74 **Anne-Marie Trevelyan:** I will, but I am talking about the housing point.

Sir Philip Rutnam: I take the point, and we will see if there is anything more that we can do. I take the point that it would not be acceptable for Mr Vanriel to be at No. 33 in six months' time. Is there anything else that we can do to improve and accelerate his prospects of getting good housing quickly?

Q75 **Shabana Mahmood:** I am sure the Committee will consider recommendations to the effect that everyone's accommodation needs should be dealt with adequately, Sir Philip. May I take us back to where I think some of these problems started? To go right back to the '70s, the Immigration Act 1971 came into force in 1973. From that moment, it has always been known by the Home Office—every Home Office, every official, every Home Secretary—that a large number of our fellow citizens who are in this country lawfully do not have the documentation to prove their status. Why is it that this very important fact, known for decades, seemed to disappear from the corporate memory of the Home Office at the point at which the hostile environment policies were brought in?

Sir Philip Rutnam: I think you are right: it has been known. This is a matter that really needs to be looked at a bit more thoroughly in terms of the historical record, so I will make a generalisation, but I hope that it will be helpful. Yes, it has been known in principle, but the clarity and focus on the point have varied a lot over time, and I think it clearly was lost sight of as these policies were developed and implemented. So we lost sight of that point. Why? I don't really know, in truth. I would love to know. I think probably that people's minds—their energy, their focus—were elsewhere. But it is absolutely clear that we lost sight of this point and of its significance—the scale of the population and the link between their exposure or vulnerability to the adverse effects of new policies being introduced, and the complexity of the regime.

Q76 **Shabana Mahmood:** I appreciate, Sir Philip, that we are talking about matters going back some decades, but—forgive me—it seems like rather a large number of people to lose sight of when you are introducing a set of policies that are about the provision of documentation. The whole thrust of these changes is basically to send the message to people who are illegally in our country, "If you think you can access services, think again. You'll need a whole lot of paperwork to do it." I want to push you on how it is possible to lose sight of the fact that something like 500,000 British citizens—in all but name—might be caught by a policy of that nature. They have perfectly legitimate legal status in this country, but no documents to prove it, so how is that even possible?

Sir Philip Rutnam: A little bit more qualification, perhaps: I do not think that they were lost sight of completely. In my review of what happened—which is not as comprehensive as Wendy Williams's, whom we have doing a detailed review of how this came about—you can see some signs that there was recognition of the risks for this population in some elements of the policies being taken forward.



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For example, in work on the compliant environment in relation to the right to rent, I think it is clear that a conscious decision was taken to widen the range of documentation that could be provided by people and would be acceptable, because there was a significant population in the country, including British citizens proper, if you like, who didn't have passports or biometric residence permits. So there was some awareness, but how it is possible that this was lost sight of as as significant a fact as it clearly is, I repeat, I am afraid that I don't know. I think probably that people's minds were elsewhere.

Q77 Caroline Flint: Whose minds?

Sir Philip Rutnam: Whose? All the relevant decision makers, both Ministers and officials. It also did not come up strongly, I believe, in the debates in Parliament that happened on these successive measures.

Shabana Mahmood: Oh, Sir Philip—bad move.

Sir Philip Rutnam: You may prove me wrong.

Chair: We will have to go back and read the Immigration Bill.

Q78 Shabana Mahmood: We will come back to that, I think. Just on how this was missed, there were opportunities. Certainly we know from the National Audit Office Report that there was an opportunity in 2014, when the Legal Action Group produced their "Chasing Status" report. Whose responsibility is it when a third sector organisation with clear experience at the coalface produces a report that suggests that black men are going to struggle under this new regime? Whose responsibility is it at the Home Office to read that report and produce a briefing to say, "Actually, folks, this might be a bit of a problem"?

Sir Philip Rutnam: It is the Home Office's responsibility as the Department responsible for these policies to make sure that the relevant evidence is gathered, so we have a good understanding of the issues; and also that when we get representations, they are properly considered. In practice, that would be the responsibility of the team working on this new policy. I do not know who that was; I do not know how it was structured, but it would be the responsibility of the team, and it would be their responsibility to make sure that the relevant evidence and advice was provided to Ministers and all taken into account in the impact assessment.

Q79 Chair: Your predecessor, Sir Mark Sedwill, who with the timeframes involved was unable to appear before us today. I am reading his papers; he tells us in, I think, the fifth or sixth paragraph of a letter he wrote about the "Chasing Status" report that Ms Mahmood just referred to, "neither this document nor the diplomatic telegram", which is also referred to in 3.22 in the Report, "which briefly reference the issue of undocumented citizens being raised by Caribbean Commonwealth Ministers in 2016"—that is particularly the Foreign Office telegram—"were brought to my personal attention. I understand that neither was acted upon by the Department." You have just given us a description of what should happen, so why didn't it?



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Sir Philip Rutnam: We will need to look into that and find out.

Q80 **Chair:** You haven't done already?

Sir Philip Rutnam: I have not done in relation to the "Chasing Status" report, no.

Q81 **Chair:** It has been in the NAO Report, which was published on 5 December, so it has been out a couple of weeks.

Sir Philip Rutnam: And these questions are absolutely within the scope of Wendy Williams's independent lessons learned review. We have taken the view that the right place to come up with a definitive account of what happened and when, who knew what, when, and how this came about—what are the underlying factors—is in Wendy Williams's work.

Q82 **Shabana Mahmood:** So we have to await the outcome of that review before we know who read that document, what the briefing said and who then made the decision not to do anything with that information. That is what you are saying to us today.

Sir Philip Rutnam: That is the approach we have taken in relation to the "Chasing Status" report.

Q83 **Shabana Mahmood:** And the 2016 ministerial discussion?

Sir Philip Rutnam: The very brief reference in a diplomatic telegram, yes—a very brief reference.

Q84 **Shabana Mahmood:** I am interested that you say it is a very brief reference. It is pretty embarrassing if Ministers of other countries have to tell us that we are treating our own citizens with contempt. That is why I am surprised that these brief references or these reports have just sort of gone into the ether. I would imagine that if another Commonwealth nation's Minister has to come to one of our Foreign Office Ministers and say, "Hang on a minute; you are treating these people pretty shabbily," that would make that Minister come to you at the Home Office and say, "God, what's going on?" and that that would be recorded somewhere, Sir Philip. I do not think we need to await the outcome of another review to work out what happened.

Sir Philip Rutnam: It was a brief reference in a much longer diplomatic telegram, where the focus was really on many other issues. It was two or three lines, I think, in a telegram which was of 100 or more lines—100 to 200 lines—so it was not a long discussion. I completely agree that we should have spotted this issue. It should have appeared in our impact assessments. We should have understood the potential adverse effect of these policies on this population. I completely agree with that; but actually I would say that the fault is not particularly with failing to take into account three lines in a diplomatic telegram; the fault is, if anything, in failing to have done the work that identified it as an issue. There are hundreds and hundreds of diplomatic telegrams each day, and this was a brief reference. I am just trying to put it in context, in terms of where within the bureaucratic system this issue should have been identified,



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earthed and resolved. It is really in the work bringing that policy forward, and in understanding the population that was going to be affected and the impact that these policies, if not approached appropriately, could have.

- Q85 **Sir Geoffrey Clifton-Brown:** Sir Philip, on the same report, "Chasing Status", your Lords Minister, responding to a question in October 2014, said, "it was aware of the report"—the Department was aware of the report and there is no question that it was not—"but thought there might be a 'small number' of individuals who found themselves unable to demonstrate their entitlement to work and to receive benefits." Surely that is no excuse, either. Even if there is one due to Government policy, that is one too many. Surely your Department at the time should have taken some action.

Sir Philip Rutnam: I do not disagree with that, Sir Geoffrey. I recognise that the Department did not get this right. Personally, I would put more weight on the "Chasing Status" report than on three lines in a diplomatic telegram. The report is only a relatively small sample, but it is quite a substantive document.

- Q86 **Sir Geoffrey Clifton-Brown:** It went back to 2014, so it has taken your Department eight years to do something substantive about it.

Sir Philip Rutnam: Four years. We will see what Wendy Williams says. She is doing this detailed and forensic account. However, I would accept that on the face of it, that report anticipates a number of the very real, human problems that we have just been hearing about. It should have been recognised and acted upon.

- Q87 **Shabana Mahmood:** Just a final point on the "Chasing Status" report and the response in the Lords about a "small number" being affected. Can you tell us today on what basis that phrase "small number" was used? Where did it come from? Why was that phrase used? Is there any analysis on which that Minister in the Lords was able to say it is a small number?

Sir Philip Rutnam: I cannot, I'm afraid, because I have not looked at the documentary trail behind that answer in the Lords in 2014.

- Q88 **Shabana Mahmood:** Let us move on to the impact assessments, as you referenced those a couple of answers ago. Why were all the impact assessments done on the 2014 and 2016 legal changes so completely inadequate?

Sir Philip Rutnam: It is difficult for me to say, as I was not in the Department at the time. I can speak generally about what makes for a good impact assessment; it is difficult for me to talk about the specifics of those two cases.

- Q89 **Shabana Mahmood:** With respect, Sir Philip, this has been a huge scandal for the Government, erupting towards the end of last year, when it started making the national news, and going into spring this year. You have had quite a bit of time to work out how on earth we got into this mess in the first place. You referenced impact assessments. That is why



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it is completely inadequate for you to say that you are not able to give an answer today. You know that the impact assessments were a problem, because you have just told us yourself unprompted. I am asking you why.

Sir Philip Rutnam: To be clear, what we have done to try to resolve these issues of, "How did this mess happen? How did this scandal happen?", is ask an independent figure—Wendy Williams—to do a detailed forensic review. I have not substituted that for our own forensic review within the Department of, for example, those two impact assessments.

The basic answer to your question will be that it was because the work was not done to the standard required. It will have been a failing, to be honest, of understanding the context, of not understanding enough about the populations that were affected and not doing enough work on what the effects could be. In particular, that is thinking about different scenarios. In general, impact assessments work when they are not regarded as a matter of form done towards the end of a policy-making process; I'm afraid I have seen that. They really work when they are at the heart of the policy-making process and are about real effects. They come to life. I fear that these impact assessments were more a matter of form than really capturing the reality. That would be my feeling.

- Q90 **Shabana Mahmood:** That is at least more candid than some of the previous answers we have heard, so I am grateful to you for that. I appreciate that you might not be able to tell us whose fault that is today; perhaps the independent review will find that out for us. I am conscious though that there was a suggestion that access to banking facilities, which is quite a big deal for citizens, access to driving licences and so on would be continually monitored. Could you describe to us the monitoring process that your Department has been doing around access to these services, which have all changed in the new hostile environment policies?

Sir Philip Rutnam: I am going to ask Ms Dunn to come in. We have been monitoring these policies intensively since the Windrush scandal broke. I think the monitoring beforehand was, to be honest, more limited, although there was some.

Shona Dunn: This is a good opportunity to segue into the many, many things that are now in train in the Home Office, to address some of the points that the Committee has been raising.

- Q91 **Shabana Mahmood:** I would like you to focus on the monitoring of access to banking, property and renting, and all of those things that were changed as a result of these new regimes, and what your Department did, until the scandal broke, to live true to that commitment to monitor the impact of these changes.

Shona Dunn: I will come back in a moment to the period up until the Windrush scandal broke. The monitoring that will have gone on beforehand—I have to say to the Committee that I do not have a precise answer on this—I expect would have taken place through the cross-departmental group that we have to monitor those. We have a lot of



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engagement with other Government Departments and other partners that use that data, so that we can gather information back again on how they are dealing with it. What I cannot tell you, I'm afraid, Ms Mahmood, is exactly the detail that we gathered in from them in advance of Windrush.

Q92 **Chair:** So you were not hearing any feedback from banks or benefits offices.

Sir Philip Rutnam: The bank changes only came in at the beginning of this year. They began in January and they were paused effectively in April, so there was not very long.

Q93 **Shabana Mahmood:** Landlords? Employer checks?

Sir Philip Rutnam: On landlords, we monitored—

Shona Dunn: We have engagement with landlord and employer organisations. I am certain that we would have had some feedback through that route and some feedback through the route of engagement with Departments, but I will need to come back to you with pre-Windrush specifics of monitoring.

Since then, we have significantly diminished and paused proactive data sharing with our partners and other Government Departments, to ensure that we were removing the risk that data that could not be relied upon was being used in a compliant environment context. We have had a lot of discussions with Departments and partners about how to use the data that they now have. We are sampling that data, doing a lot of manual checks on that data and putting in a lot safeguards around that data. We are also getting feedback from organisations about how they are using it.

Q94 **Shabana Mahmood:** With respect, Ms Dunn, we are dealing with a situation where lawfully British citizens, mostly BME, have potentially been discriminated against in the housing market, and have been racially discriminated against in the employer labour market and in other areas, and the best you can say to me today is that you will have to write to us about monitoring before the scandal broke and that you are doing better data sharing since the scandal broke. Do you think that is acceptable when we are potentially dealing with race discrimination in access to very important life-changing services?

Shona Dunn: There will have been significant engagement and exchange of information between the Home Office and partners in advance of Windrush. There will also have been—there was—some analysis, particularly in the context of right to rent, about whether there was any discrimination as a consequence of right to rent policy. Some work was done specifically in respect of right to rent to determine whether there were any unwarranted side effects that we wanted to deal with. That work was done, but I cannot give you specifics of how many bits of information we had back from partners in advance of the Windrush scandal.

Sir Philip Rutnam: I was just going to say that I think there was monitoring of activity levels—a lot of discussion with our partner organisations, such as DWP, HMRC and DVLA, about activity levels. In



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particular, there was, for example, a target in relation to driving licence forfeitures, so that was definitely monitored.

In relation to effects and impacts—in particular, potential adverse impacts—the one example of structured analysis that I can think of was a review of whether there was a discriminatory effect in relation to the right-to-rent scheme in the West Midlands when it was introduced on a pilot basis in, I think, 2015.

- Q95 **Shabana Mahmood:** What more would have needed to happen to send a red flag, or some sort of signal to you, Sir Philip, or to your predecessor right at the top of this Department, that something potentially racially discriminatory was going to happen?

Sir Philip Rutnam: My view is that the Department should be evaluating its policies. It should monitor its policies, not just in relation to activity, but also impact.

- Q96 **Shabana Mahmood:** It has obviously failed utterly in this regard, then, hasn't it?

Sir Philip Rutnam: And it should evaluate. There will also be constraints on how many evaluations you can do, but I think it is right—indeed, it is part of the cross-Government, to use that phrase, guidance—to conduct policy evaluations.

- Q97 **Shabana Mahmood:** The thrust of the evidence given by all of you today seems to invite us to accept that this was all a terrible mistake and a huge oversight, and that there has to be an investigation to learn some lessons. Looked at from the side of the victims it all feels rather deliberate as a way of sending a signal that if you fall foul, even in a small way, you are going to have your status questioned and your life turned upside-down.

Can you understand why, outside your worldview, it looks and feels very different? What are you going to do to put that right and to give some confidence back to the people who have to interact with your Department?

Sir Philip Rutnam: I can understand why people would see it differently. As I tried to indicate in my opening comments, it appals me. The right way to respond is to deal with the specifics of the injustice and unfairness that has occurred in this case, and to take the right lessons from it in developing the immigration policy and practice going forward, and the Home Secretary has talked about that.

- Q98 **Shabana Mahmood:** On that exact point about learning the lessons from the injustices that have occurred, why is it then the case that some of the measures that you are taking are restricted to the Caribbean-origin population only when you know, and everybody knows, that we are talking about a much wider group of citizens that are affected?

Sir Philip Rutnam: It is important to be clear. There are a whole range of different aspects of what we have put in place in response to the Windrush



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scandal. Although it has been called the Windrush scandal, and some of the things that we are doing are called Windrush, only one element out of all the things that we are doing has been limited to Caribbean nationals.

Can I just go through them? We have set up a new statutory scheme to make it quick and easy to confirm the status of people. The Windrush taskforce is available not just to Caribbean nationals but to all nationals—not just Commonwealth nationals—with the right date of arrival here. There is the lessons learned review.

The one thing that we have focused on Caribbean nationals is the historical case review, and there is a very good reason for that. The evidence that we have suggests that the people who are likely to have suffered most detriment in relation to potential removals from the United Kingdom, or detention unfairly in the UK, are Caribbean nationals.

We have looked at 11,500, 11,800 files for Caribbean nationals and found 18 nationals in that population whom we think have suffered significant detriment. The taskforce and the scheme have already benefited about 3,000 people. We have had roughly as many people doing the historical case reviews as running the taskforce.

- Q99 **Shabana Mahmood:** On the specific point, though, Sir Philip, of your responsibility to find everyone who is affected by these measures, you have focused only on the Caribbean-only population. You have said that to widen it to the bigger group of 160,000 would be disproportionate, but you have not provided the National Audit Office with any analysis or numbers to support why that would be disproportionate. Why do you say it is disproportionate and on what credible basis do you expect us to accept that as an answer?

Sir Philip Rutnam: Let me try. We have reviewed 11,800 historical cases of detentions and removals, which have required 150 people to do that work. There are at least 160,000—fifteen times as many—files in relation to non-Caribbean Commonwealth nationals. We estimate that it would probably require 200 people for a year to do comparable work for that population, and if you want to do it in a shorter time frame, you need to increase the number.

The point is that we expect that frequency with which we would find wrong being done to be much lower for non-Caribbean nationals. Most importantly of all, doing this historical case review is not the main means by which we are trying to put this right. The main means by which we are trying to put it right is through the taskforce—its outreach programme and publicising its activity—and asking people to come to us.

- Q100 **Shabana Mahmood:** If Mr Vanriel, instead of being a Caribbean-origin citizen, was a Mr Vinod from India, would his case be any less heartbreaking just because he was from a different Commonwealth nation and not caught by your review of 160,000 files?

Sir Philip Rutnam: No, it would not be any less heartbreaking.



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Q101 **Shabana Mahmood:** So why are you not taking the responsibility to review those files and find equivalents to Mr Vanriel who came to this country from other Commonwealth nations?

Sir Philip Rutnam: Mr Vanriel's case, as I understand it, came to us through the taskforce; it has been put right through the taskforce, and we are trying to continue to provide support through the taskforce. It did not come through reviewing historical cases. If a Mr Vinod from India has anything like a similar experience, we encourage him and his advisers and family to come to the taskforce. The point I am trying to make is that the main way we are trying to put this terrible thing right is by having a team of very experienced, capable caseworkers and an outreach programme, and encouraging people to come to us. That is much more effective.

Q102 **Shabana Mahmood:** In a very nice way, what you are really doing is putting the onus on the poor former citizen of our country, now languishing in another land that they had not been in for decades before they were forced to return to it and not allowed back home. The experience of people from Nigeria—we have had written evidence to this effect—is that it is very difficult to apply out of country to get back in if you are not from one of the Caribbean nations. Do you not consider that you have a duty of care, rather than leaving it to those citizens, to take the initiative yourself, go through your files and rectify your mistake?

Sir Philip Rutnam: We think we have a duty of care; we think the duty of care is likely to be best exercised by publicising, raising awareness and going through all the means we can to encourage people to come forward.

Q103 **Chair:** Particularly, on some evidence we received, are you publicising this in Nigeria? Apparently, the free press in Nigeria is not reporting on it a great deal.

Diana Luchford: We have not communicated this through paid media in Nigeria, no.

Q104 **Chair:** I am not saying paid media; do you have the word out to other countries, whether Nigeria, Ghana or others on the list in the letter from the Secretary of State? Have you put out anything so that local media pick it up and people who have been deported or have relatives in that situation are aware of it?

Diana Luchford: Our strategy has been around the dissemination of messages through our communications assets.

Q105 **Chair:** That is a lot of jargon—communications assets. We have here Cyprus, Denmark, France, Gambia, Grenada, India, Ireland, Italy and Kenya—this is the list of countries from your own Secretary of State, So we know where the countries are, and you know where the countries are. Have you been in touch, through a press release, for example—something simple such as that?

Diana Luchford: Clearly, there has been a lot of publicity about the whole Windrush issue. *[Interruption.]* Can I explain? Our communication strategy is predicated first of all on the knowledge that this whole affair has



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generated mistrust in the Home Office, so Home Office communications per se—press notices and so on—may not actually be the most effective way of getting this message through. We have tailored our communication through more trusted channels, including NGOs, MPs, local authorities and our own volunteer cohort within the Home Office, whom I would like to tell you about separately, but also through posts abroad, such as British high commissions, to ensure that what I call our communication assets—forgive me; that means our wallet cards, our posters and so on—are disseminated through those various channels.

Q106 Chair: Sorry, wallet cards and posters? Can you tell me what a wallet card is?

Diana Luchford: We have produced 20,000 of these, and they are just small cards that provide the Commonwealth citizens taskforce freephone number and the website address. They can be left in places like GP surgeries or—

Q107 Caroline Flint: How many have picked them up?

Diana Luchford: I don't have that information—

Q108 Chair: Are they in the UK only?

Diana Luchford: No, they are also disseminated through British high commissions abroad.

Q109 Chair: Have you done any media monitoring of overseas media to see what is being reported there in terms of the taskforce?

Diana Luchford: We certainly know that we have had 2.5 million impressions on our social media assets—things like Facebook and tweets.

Q110 Chair: Whereabouts around the world?

Diana Luchford: I do not know if you can deduce that.

Caroline Flint: Yes, you can.

Diana Luchford: Okay. Well, I don't have the information, then. I'm sorry.

Q111 Chair: Well, you can give me all the numbers, but what Ms Mahmood and I are driving at is whether people in the countries concerned know about the taskforce. I might have a Nigerian constituent I do not know about who has been deported unfairly to Nigeria and does not know about the taskforce. Do you understand what we are trying to—

Diana Luchford: Yes, I do.

Q112 Chair: Do you agree that that could still be happening?

Diana Luchford: Yes, and I think that there is more that we can do.

Sir Philip Rutnam: We are not at the end of this.

Q113 Shabana Mahmood: I have a press report in front of me from *The*



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Independent on 29 November 2018, which refers to a Home Office failure to tell Commonwealth deportees of the Windrush taskforce. There is not just a problem with publicity in foreign countries; there is a problem with your own officials not telling people who have been deported that they can access the Windrush taskforce. Why is that happening?

Sir Philip Rutnam: They were not of the Windrush generation. They did not qualify as Windrush in any sense, as I understand it.

Diana Luchford: I am not sure that I know the article you are referring to, but I do know that the Home Secretary has drawn a purposeful distinction between people who were deported because they would have been clearly criminals—they would have reached the deportation—

Q114 **Chair:** No, they are not clearly criminals because they are deported. That is quite a—

Diana Luchford: I am drawing a distinction between removal and deportation, because deportation only applies to people who—

Chair: Well, deportation can be because people resist removal. It is a subtle point.

Q115 **Shabana Mahmood:** There are 49 people who were removed to Nigeria and Ghana last year after the Windrush settlement scheme had been established. You will also know that the position in relation to people who have a criminal record has been inconsistently applied by the Home Office, and not everyone who might have a record is liable to be prevented from gaining full status. That is correct, isn't it?

Sir Philip Rutnam: There is some further work going on in relation to the criminal cases, which were excluded from the earlier historical case review. As I recall that article, I was assured at the time that the cases did not qualify as part of the Windrush—

Q116 **Shabana Mahmood:** All 49 of them?

Chair: We are not talking about just the 49; it is the principle.

Sir Philip Rutnam: That is the assurance I had at the time.

Q117 **Shabana Mahmood:** Apart from the large number of other Commonwealth citizens affected, there is a wider group, including the children of those initial arrivals from the Commonwealth, who are potentially being adversely affected by the hostile environment, or the compliant environment—call it what you will. What are you doing to try to understand how, when and why these people are being adversely affected? What work is being done at the Home Office to try to get ahead of this next scandal before it blows up in everyone's face?

Diana Luchford: The children of Windrush can apply under the Windrush scheme if they have been here up till—at any time, they can apply through the Windrush scheme. Sorry, I am not quite sure what the question precisely relates to.



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Q118 Shabana Mahmood: There is a much wider group of people—the National Audit Office Report says it, too—who potentially will be caught by the hostile environment policies on the requirement for documentation. What are you doing to understand how those people are adversely affected and how they can be helped? That is the next scandal coming down the track, unless you get ahead of it.

Sir Philip Rutnam: We have dealt with the people who are children of the Windrush generation. They can apply to the Windrush taskforce. Shona, do you want to pick up the question of other people in the country who—

Shona Dunn: There is a broader question, which I think the Home Secretary has acknowledged himself, about how we assess the impact of compliant environment measures, which comes back to the point you were making a little while ago. He is considering options at the moment for how he wants to go about that and he has said we will let the House know in due course, once he has considered that. I think you are absolutely right that, as part of that, a significant question will be how we assess the potential impact of compliant environment measures on people who may have issues with specifying their status.

Q119 Shabana Mahmood: Among the ways forward that the Home Secretary is considering, is one in relation to biometric residence permits?

Shona Dunn: You are referring here to the question that has been asked before about the degree to which it would be sensible to ensure that everybody in the country who is from a non-EU background has a biometric residence permit.

Q120 Shabana Mahmood: Yes, what are you doing to ensure that these people have access to a biometric residence permit in order to regularise their status? Is that one of the options under consideration?

Shona Dunn: I know that Ministers have considered in recent times questions about biometric residence permits, and they have remained of the view, as of today, that getting a biometric residence permit should be a voluntary thing, so that has not been part of the consideration of—

Q121 Chair: But have you looked at the procedures to get one? People lose their job while waiting for a biometric residence permit. Most of them don't know they need one until their employer says they do, and their little, scrappy IND letter—or whichever iteration of the Home Office letter they got or whichever stamp in their passport they have—no longer counts because the employer says, "You need a biometric residence permit. The Home Office will fine me if you don't have one." People are losing their livelihoods and sometimes more than that—their home—as a result, because they no longer have an income, for a period of time. Is that something that you are aware of, Ms Dunn?

Shona Dunn: It is something that I know has been raised as part of the question around how we make sure that undocumented people can document their status.



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Sir Philip Rutnam: It remains under review, but thus far Ministers have taken the view that it should not be made mandatory.

Q122 **Chair:** At the moment, what I have had in responses from the Minister—it's not about whether it's mandatory or not; she is silent on whether the Home Office even knows about the people who would now be expected, if they were in employment, to have a biometric residence permit. The Minister has not told me—they have just said they have to apply for one if they need one. She has not said anything about whether the Home Office could or will let those people know that they should have one, prior to their existing leave running out and their employer finding that they need this new document.

Shona Dunn: You know and have quoted before figures about the number of people who may not have documentation.

Q123 **Chair:** But these people do. It's just that the documentation requirements have changed around them and no one has told them.

Shona Dunn: As I say, I think Ministers are aware of the fact that there are a number of people who are still potentially in that position and they have been advised on the process for getting a biometric residence permit voluntarily. They have chosen to leave that in that position for the time being, but they are keeping it under review.

Q124 **Chair:** But in the meantime people are losing their—I might just go through my own personal case load, frankly, and send you some examples that this applies to.

Sir Philip Rutnam: There will be things we can do proactively to raise awareness of biometric residence permits. There will probably be more things we could do proactively to raise awareness. I doubt we will be able to identify all the people in the country who qualify for one, but I take the point that there will be things we could do, potentially using data we have, to raise awareness of it.

Chair: One of the things is about resources, which I think we will be coming on to, but Ms Flint, over to you.

Q125 **Caroline Flint:** Your immigration case management system is not fit for purpose. Poor customer service, poor record management and an inconsistent approach to cases were all cited in the NAO Report. What, Sir Philip, are you doing to ensure that they are fit for purpose, and what is the timetable to get it right—not just for the stock, but for the processing of the flow of applications that come in in the future?

Sir Philip Rutnam: You are right; there are defects in our data and there are defects in the systems we have to manage that data, which are quite old. I think the casework information database dates back to 1998, from memory. We do have a very important project called Atlas to replace it, and it is making significant progress, but—

Q126 **Caroline Flint:** Can you be more specific about what any new process will have built into it that doesn't exist already? It is not just about the



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software; the approach to staff and how they hear data and then input it into the system are equally important.

Sir Philip Rutnam: One of the key benefits from Atlas is providing a customer-centric view and being able to bring together all the relevant data about an individual in one place in a way that is much easier and much more effective than now. Another big benefit is much easier and more automated updating. There is a lot of manual data entry at the moment and we will be able to reduce that. Those are two significant benefits.

Q127 **Caroline Flint:** How will you verify that the data is correct? I accept what you say about bringing information together, but it is about the data being correct. I will go on to ask a question in a minute about how you were sharing information with other agencies that was not correct. So how will you verify the information?

Shona Dunn: On the question about how we verify the data, as Sir Philip has said, as we move over to Atlas there are a number of advantages. Inevitably, there is a question about the data that is provided to the caseworker, but once we are on the Atlas system it has the advantage of being a single platform.

Chair: That is not what Ms Flint asked. She asked about the data going into the system.

Q128 **Caroline Flint:** We have poor data now. Just transferring it across will not help.

Shona Dunn: You are talking about the cases already in CID.

Q129 **Chair:** CID is—

Shona Dunn: CID is the casework information database that is currently being worked on. Perhaps I can talk about data cleansing and data robustness first and then come back to the question of how we improve the case management system. The data cleansing and data robustness point is absolutely fair. A number of things have been done in recent months to improve the position in respect of that. Data specifications have been tightened up so that we have a lot more data matching going on before data is put into a pool that can be used for other purposes. As I said earlier, we are removing cases. This is where we talk about taking cases into a compliant environment. We are removing cases that are high-risk, where there might be reason to believe they are not at the end of an appeal process or in a final refusal process. There is an enormous amount of manual checking going on and a lot of additional sampling of that data to make sure that any data that is passed over to any other partners is right. That is data robustness and cleansing now.

In terms of the casework systems, it will be much harder to input data that is incorrect into Atlas. At the moment in CID there are a lot of open textboxes. It is down to individual caseworkers to put information into it. The processes and systems by which data will be entered into the system will be a lot more consistent and managed, and therefore quality-assured,



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so the data going into the system will be better. It is a single system. It is, as Sir Philip says, person-centric, so you will be able to match data across the piece and be able to track a person through the system rather than a series of cases through the system. It also does a number of other things that I think will be beneficial to casework management generally, including doing workflow tracking. In real time you can determine which cases are being taken forward and which cases aren't.

Q130 Caroline Flint: What is the timetable for it? Will it deal with stock as well as flow?

Shona Dunn: The roll-out of Atlas has begun. It is being rolled out to asylum support cases and students.

Q131 Caroline Flint: But they are active new applicants, are they? It doesn't deal with stock.

Shona Dunn: They are active new applicants, but there will be a transition over as well, and data will be cleansed as we move over.

Q132 Caroline Flint: I am still not clear about the timetable. When will all applications that involve immigration processes be using the Atlas system and when will the movement of all stock on to the Atlas system be completed?

Shona Dunn: I do not have those dates right now. We are just about to go into the private beta phase for the next phase of rollover.

Q133 Caroline Flint: Will it take 10 years? Five years?

Shona Dunn: Much less than that.

Sir Philip Rutnam: From memory, it's 2021 for project completion. It's something like that. We are in actual implementation. It's being used for real cases now.

Q134 Caroline Flint: But we are talking about a massive number of cases. It's about not just chipping away at the top of the mountain.

Sir Philip Rutnam: And we are very conscious that we need to get this right, so I am not trying to do it sooner than works.

Q135 Chair: Ms Dunn, how many of the immigration processing centres have you visited since you joined the Home Office?

Shona Dunn: Three.

Q136 Chair: Can you tell us where they were?

Shona Dunn: Liverpool, Sheffield and Croydon.

Q137 Chair: So you have seen the piles of paper in the files?

Shona Dunn: Yes I have, and the cases—positions—where we have been able to move.

Chair: To underline what Ms Flint is saying, it is not a perfect system by a very long way. So moving it all over to Atlas is going to—

Q138 **Caroline Flint:** Hang on. Will you please write to the Committee with a detailed breakdown of how you will deal with the stock and the flow in its entirety—not just students or asylum seekers, but in its entirety—and how Atlas would be used? Also, following on from the Chair's point, what are you doing about staff and the problems about poor customer service, and this inconsistent approach to cases? As we heard earlier, 50% of appeals being won is not a good outcome for a service that should be seen as fair and well-managed.

Shona Dunn: I completely agree. You are entirely right that we cannot wait until the transition over to Atlas to solve all of our problems, and there are a number of other things that have been put in place to improve the quality of decision making and to improve the assurance processes in UKVI generally. You will know that we have set up a chief caseworker unit in UKVI, to assist with complex cases and to assist where caseworkers feel that they need additional support and expertise.

We also have the safety valve mechanism in immigration enforcement for a similar purpose. More generally—this was referenced in the NAO Report—UKVI has introduced an operational assurance framework, which it is operating now. That was introduced in advance of April and Windrush coming into place. We are now coming up to a year in operation of that assurance framework and it is just about to go through a review process. It is making a difference in terms of first and second line of defence assurance of decision making. It is focusing on the outcome of the decisions, not just the process steps. It is looking specifically at questions such as feedback loops, governance and skills—whether different casework teams have the sorts of skills necessary to deliver the sorts of decisions they are being asked to deliver, to the quality that they are being asked to deliver them.

There is a significant programme of work within UKVI. It is not there yet. It is going through this review, so that it can be further strengthened. But it is designed specifically to address the quality of decision making, which you quite rightly point out.

Q139 **Caroline Flint:** So you believe that under this new system there will be the right checks and balances, and earlier warning prompts, to not allow this situation to happen again.

Shona Dunn: The UKVI assurance framework is designed to do a lot of that. As I say, it is in its early stages. It needs to be reviewed. We need to strengthen it further. I could not say right now that we could be sure of having absolute line of sight down into all the parts of the organisation. We need to continue to improve our assurance.

We have talked about UKVI. I think that one of the other things it is worth us mentioning is the other work that Sir Philip has been particularly focused on in the last year, which was about creating the mechanism by which we could attempt to spot some of these things sooner. For example,



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we have created something called the hub in the borders, immigration and citizenship part of the Home Office, which is specifically designed to be the recipient or the end of the feedback loops, to take information in from the rest of the organisation, to identify where unexpected issues are arising or things we cannot explain are happening, and to go in and explore them. We have other mechanisms elsewhere to try to augment that.

Q140 Caroline Flint: One of the problems is the complexity of the immigration system. Benefits is probably the other Department that equally has some of the same issues. One of the things for people applying and using the processes for visas or their immigration status is how confusing they find it. Sometimes people apply, thinking they are applying for the right status or visa and it turns out to be wrong. So what are you doing, Ms Luchford, to ensure that the process is easy for people to use, not just those covered by the Windrush taskforce? Do you test these processes with the public to ensure ease of use?

Sir Philip Rutnam: I think we should answer this with how we are generalising from this. Taking the experience of Windrush, which was exactly what you have described, we found case after case where people were just completely overwhelmed by the complexity of the system, did not know which product to apply for, applied for one and got turned down because it turned out to be not the right product, and now we are trying to sort it out.

Q141 Caroline Flint: So what are you doing?

Sir Philip Rutnam: We are trying—at the start of this, I have to say—to learn from that experience how to apply that on a larger scale and how we can, for want of a better term, industrialise the experience. What we have done in significant but relatively small numbers of Windrush—

Q142 Caroline Flint: Can I just stop for a second? I am getting, frankly, very long and not very practical answers to this. When I was Public Health Minister and we had a relatively small budget for marketing public health, we used social marketing. We went out and talked to people who we thought needed to be supported, to find out what sort of information worked with them, so that they better understood the system and could get the services they needed. In some respects it is not rocket science. Given that it is a known fact that people find this process confusing, I am asking what practical steps you are taking to ensure that you test out policies, forms and online services with the very people you are asking to use them, to ensure they are easily understood, and maybe also test them out with your staff so that they feel confident about deploying the policies that are brought down from on high. What are you doing practically to test them and ensure they are fit for purpose?

Sir Philip Rutnam: I will say two things, and then Shona should add. First, we recognise it as an issue and we are starting to try to put it at the heart of the way in which we work on policy, and turning it into operations—

Q143 Caroline Flint: Some people would be really shocked at that answer,



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because to be honest, Sir Philip, why for the last 20 years has that not been the policy of the Home Office?

Sir Philip Rutnam: The policy of the Home Office under successive Governments has been to receive applications and process them under the rules that apply to that application. We have not, in truth, had a proactive approach to trying to help people to find their way through the system. That would be my observation.

Chair: A truth; it is amazing that—

Sir Philip Rutnam: This is one of the things that the Home Secretary is challenging us to start to try to change. Of course, that is easy to say but harder to do. The second thing is starting to do that in practice. I could use one very good example, the EU settlement scheme, but that might take us into another whole conversation. That is a very good example.

Q144 **Caroline Flint:** Let's put that to one side for now, please. Ms Dunn, let's go on to what you are actually doing, practically.

Shona Dunn: Shall I give you two very practical things? There are two pilots ongoing at the moment, one with Citizens Advice in Bolton and one in the Croydon contact centre, looking at precisely the question you ask, which, as Sir Philip says, is exactly the one we need to answer for ourselves: what happens if you triage people into the right bit of the system? That is different from giving advice; it is triaging people into the right bit of the system and, if they are not eligible on one bit of the system, rather than simply closing your door, working out whether there is another bit of the system that they are eligible under. Those pilots are under way and we will be really interested to see their outcome. Secondly, I know we are trialling, for example, the shape of decision letters with a number of partners and legal bodies, to determine whether there are ways that we can make those decision letters much easier to understand and much more human.

Q145 **Caroline Flint:** I want to move on to look a bit more closely at the poor-quality data that was being shared with other public bodies, which led to some very bad consequences for individuals. To what extent did sharing of poor data exacerbate the problems for the Windrush generation?

Diana Luchford: We are looking into that as part of the historical review, because we are looking into a number of people who may have wrongly received compliant environment sanctions. That is the second phase of the review; we have done the removals and detentions part and we are now moving on to look at people who may have wrongly been given compliant environment sanctions.

Q146 **Caroline Flint:** Obviously we are all waiting for the review, but what is your gut instinct about what you are hopefully picking up from the ground, rather than waiting for a review, about poor data contributing to the problems we have heard about?

Diana Luchford: My gut instinct is that we will find that there was a small number of people whose data was wrongly shared.

Q147 **Caroline Flint:** You think it is a relatively small problem, then?

Diana Luchford: In the context of the narrow Windrush cohort, yes.

Q148 **Caroline Flint:** If it happened within the context of the Windrush generation—this goes back to my colleague's earlier point—do you think it could be scaled up to a much larger number, when you bring in all those other people from Commonwealth countries?

Diana Luchford: That would be a reasonable conclusion to draw.

Q149 **Caroline Flint:** Is it possible, Sir Philip, that issues with data have meant that a wider population of people might have been incorrectly sanctioned? If it is a problem with the Windrush group, it might read across to other aspects of immigration application cases.

Sir Philip Rutnam: I don't know, is the answer to that. It is a very reasonable question, but I'm afraid I don't hold a view on that at the moment.

Q150 **Caroline Flint:** Ms Dunn, how have you responded to the various reviews highlighting that data was not accurate? Are you confident that you can now identify and target the right people for enforcement action?

Shona Dunn: I think that because of actions that have been taken to severely restrict the amount of data that is being shared for enforcement action, we can be far more confident that we will not be taking unfair enforcement action at this moment in time. That is supplemented, as I said earlier, by the manual checks and the sampling—a whole raft of things have been put in place, so that we do our absolute utmost to ensure that people do not end up in the wrong place. I am much more confident that I could have been.

Q151 **Caroline Flint:** You mentioned earlier in evidence that in a number of areas there has either been a stop or a pause. Could you write to the Committee perhaps giving us some more detail about which areas that is happening in, and perhaps some idea of the volume involved? That would be really helpful.

Shona Dunn: Yes.

Q152 **Caroline Flint:** Sir Philip, do you still have removal targets?

Sir Philip Rutnam: No.

Q153 **Caroline Flint:** Okay. Do you believe the targets to remove illegal migrants contributed to the Windrush situation?

Sir Philip Rutnam: I would share the view that the NAO expressed, which is that it is not clear. It is really important to understand that caseworkers are expected to—and in my experience do—seek to make a decision in each individual case on the basis of the evidence presented, rather than some target presented from on high. That is how they should have approached things. Clearly, the decisions that were being made in some cases here were wrong, but I am not sure what influence targets had. They are part of the backdrop; I would leave it at that.



Q154 Caroline Flint: Sir Philip, you said earlier that there was a failure to identify potential problems when policy ideas were being created. What assurance can you give us, with a new White Paper on immigration imminent, that the thought processes that are necessary to offset any problems down the road are part and parcel and at the heart of whatever that document says when it is published?

Sir Philip Rutnam: First, on the whole task of leaving the European Union and the immigration policy consequences of that, the experience of what has gone wrong with Windrush has been really relevant, in the sense that the Government have been clear throughout that we should do everything we can to support the EEA nationals who are here and whom we want to stay, and we should require them to confirm their status here. Rather than a policy of deemed leave, which is what the 1971 Act did, we have the whole settlement scheme and process of registration, making it as easy as possible. The whole way it has been approached is, if you like, the opposite of what happened in 1971. More generally, you would expect a lot of policy consideration within the Government leading up to the White Paper, and when it is published it will no doubt encourage significant debate. I will be clear, as will Shona and other senior colleagues, that we want to be testing the submissions we receive and ideas that are around for, among other things, the risk of inadvertent consequences. We do not approach this with one view and suppose that that has to be right; we need to think about what could go wrong, what we are not anticipating and—to use a bit of jargon—how we red-team some of this and test it for things that we may not have thought about but that may none the less happen.

Q155 Caroline Flint: And will you make that discussion public?

Sir Philip Rutnam: Obviously, the Government are publishing a White Paper, and in time we will no doubt produce more by way of assessments of the impact of the policy decisions that are made. This is going to be a significant process before we ultimately set new rules for the immigration system after the implementation period.

Q156 Caroline Flint: Do you think it would be in the public interest for us all to understand the thought processes that policy makers are going through, which would show how they have benchmarked their ideas, and against what?

Sir Philip Rutnam: A high level of transparency is a good thing, as is having debate and being able to show what assumptions we are making and why, and testing those.

Q157 Sir Geoffrey Clifton-Brown: Time is getting late, so I have a few short, sharp questions. You said earlier that the current Windrush taskforce is at 175, rising, I think, to 200. Can you tell us where those people have come from?

Diana Luchford: There aren't 175 staff in the taskforce. There are 111, actually.

Sir Philip Rutnam: 175 is referred to in the annexe to the letter to Yvette Cooper.

Diana Luchford: 175 is the total number of staff within the Windrush programme. Not all of them are in the taskforce.

Q158 **Chair:** All right. So 111 in the taskforce?

Diana Luchford: Yes, there are 111 in the taskforce. They are UKVI staff. They would already have been working in UKVI within premium service centres or other caseworking functions. They were brought to us to act initially as a helpline for people to call up if they wanted to regularise their status or simply get advice or support. Within that 111, there is a specific team of four who are called the vulnerable persons team. We have talked about them before.

Q159 **Sir Geoffrey Clifton-Brown:** Just to clarify those numbers, I think you said earlier, Sir Philip, that the 175 needed to go to 200. Is that correct?

Sir Philip Rutnam: I don't think I referred to 200.

Shona Dunn: I think you referred to 200 should you make a decision to do the 160,000 cases.

Sir Philip Rutnam: Oh, yes. If we were to review 160,000 historical cases, we estimate that we would need about 200 people for a year. That was my reference to 200. It is a different number.

Q160 **Sir Geoffrey Clifton-Brown:** You have taken these 111 from somewhere else—from UKVI. What impact has that had on their work?

Diana Luchford: They may have been backfilled in the places that they came from. I am not entirely sure.

Sir Philip Rutnam: Principally, they have been backfilled. Some additional costs have been incurred, which we have been seeking—

Sir Geoffrey Clifton-Brown: I am coming on to costs in a minute, you won't be surprised to hear.

Q161 **Chair:** So you recruited new people to backfill—

Sir Philip Rutnam: In some cases. If you are getting at what has been the impact on other services—

Q162 **Sir Geoffrey Clifton-Brown:** That's what I asked for.

Sir Philip Rutnam: Generally, it is fair to say—Shona might want to add to this—that the UKVI hits its service level agreements and service targets in multiple areas. The one exception, which is an area of real concern and was alluded to in a Home Affairs Committee report today, is the asylum system, which is under operational pressure. Generally, UKVI—

Q163 **Sir Geoffrey Clifton-Brown:** Can I be absolutely clear about this? You have taken these 111 out of UKVI, but you have more or less replaced them and it won't have any effect on UKVI's work.



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Shona Dunn: Some have been backfilled and some have not been backfilled. They have been taken from areas where the service level agreements are secure. We have not seen any impact on those SLAs as a consequence.

Sir Geoffrey Clifton-Brown: We will continue to monitor that.

Sir Philip Rutnam: UKVI is over 7,000 people, so it's not a huge shift in resources.

Q164 **Sir Geoffrey Clifton-Brown:** Why haven't you provided an update on the compliant environment on the historical review?

Diana Luchford: Because those figures are not yet ready to share with you.

Q165 **Chair:** When will they be ready?

Diana Luchford: I hope as soon as possible. With the compliant environment figures—

Q166 **Sir Geoffrey Clifton-Brown:** Come on. What does "as soon as possible" mean? Are we talking about spring? Summer? What are we talking about?

Caroline Flint: Next month?

Diana Luchford: We are talking about early next year. Perhaps I can just explain that we need to share the compliant environment figures with the various bodies that might have shared the data, and then get the information back from them about whether or not a sanction was actually applied in individual cases, so that does slightly extend the length of time involved. We are also having all the figures externally assured.

Q167 **Sir Geoffrey Clifton-Brown:** To follow up Ms Flint's sotto voce comment, does this mean in the first quarter of next year?

Diana Luchford: Yes. We are very hopeful of that.

Q168 **Sir Geoffrey Clifton-Brown:** Excellent. We have got an answer. Does the fact that Ministers have to sign off on refusals show that they have no confidence in your decisions?

Diana Luchford: I do not interpret it as that. It is very important that every refusal decision is very carefully considered and that the Home Secretary has confidence in those decisions. That is why he has asked the Minister to approve them.

Q169 **Sir Geoffrey Clifton-Brown:** What are the main reasons for those refusals?

Diana Luchford: They may be for reasons of criminality or of lack of eligibility under the rules.

Q170 **Sir Geoffrey Clifton-Brown:** Just remind the Committee, how many refusals are we talking about in total in the average year?



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Diana Luchford: I am sorry, I am only talking about refusals in the Windrush—

Sir Geoffrey Clifton-Brown: Yes, in this context.

Diana Luchford: We published some figures this morning—I think we have so far issued 146 refusals—

Q171 **Chair:** May I probe you on that? You said that some don't qualify. Why are they applying? Are they applying in the belief that they qualify? Will you give us a bit more to unpack that?

Diana Luchford: Some people simply misinterpret the criteria and some people might have taken the opportunity to lodge an application free of charge when they do not meet the criteria.

May I just check that refusals figure? It is 186—I beg your pardon.

Q172 **Sir Geoffrey Clifton-Brown:** Why has it taken you eight months to launch a scheme for urgent support? Isn't that a bit late?

Diana Luchford: It has taken us eight months to publish the policy. That is a perfectly fair comment. It was published today. The Home Secretary said in the House in October that there might be some urgent and exceptional cases when it is right to consider whether individual circumstances warrant a payment to be made before the compensation scheme is in place. He asked us to devise that framework, which is what has been published today, but three payments have already been made under that scheme, applying the criteria that have been published.

Q173 **Sir Geoffrey Clifton-Brown:** Going to an earlier question, have you road tested this? This is a really important matter; where this is urgently needed, it is urgent. Will the scheme be accessible to the ordinary person who needs it?

Diana Luchford: Absolutely. That is the whole point of the scheme.

Q174 **Sir Geoffrey Clifton-Brown:** Is it relatively simple to access?

Diana Luchford: In the sense that if you are in touch with the taskforce, the taskforce will work through it with you.

Q175 **Caroline Flint:** Have you worked through it?

Diana Luchford: Naturally, I haven't applied—

Q176 **Caroline Flint:** But as the senior director—it is helpful sometimes for officials and politicians to road test themselves, to see how user-friendly and understandable it is. Have you done that?

Diana Luchford: No.

Q177 **Chair:** Has someone in your team done that?

Diana Luchford: I cannot say for certain that they have.

Q178 **Sir Geoffrey Clifton-Brown:** I suppose the acid test for this question is,



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if you weren't being guided by an assessor, would the average person be able to do it themselves without too much trouble?

Diana Luchford: There is not really a way of doing it yourself. In order to access those funds, you would have to go through the taskforce. But of course the bulk of people we anticipate will be using the compensation scheme rather than the exceptional payments policy—when the compensation scheme is launched.

Sir Geoffrey Clifton-Brown: I am coming on to that in a minute.

Diana Luchford: I am sure you are.

Q179 **Sir Geoffrey Clifton-Brown:** How long do you expect the taskforce to be in place?

Diana Luchford: That is an interesting question, because of course we are actually seeing the number of new applications to the taskforce tapering off—

Chair: As the letter shows.

Diana Luchford: Yes. But there is quite a substantial stock of refusals at the moment, and a number of cases in the pipeline, so the taskforce staff will continue to deal with those, and that might still take a number of months.

Q180 **Sir Geoffrey Clifton-Brown:** Will that cover all the elements of the taskforce's work that you will be retaining, that couple of months? Or are you envisaging that those elements will take a little longer?

Diana Luchford: I cannot precisely estimate how long. Basically, we have the staff in place, and we will use them for these purposes for as long as we need to—that is probably the most sensible way of explaining it.

Q181 **Sir Geoffrey Clifton-Brown:** That is a fair answer. What assurances can you offer that things will not revert once the taskforce is wound up? In other words, will the momentum be kept up, not only on the Windrush cases but on all the other similar cases from around the world, which we have already been talking about?

Sir Philip Rutnam: This is fundamental to how we make sure that this whole experience is learnt from and applied. We have touched on some elements of that. I think that I have already discussed the Wendy Williams lessons learned review—very important—and we should also mention the wider review of the BIC system, which the Home Secretary announced in October and which, to be honest, has not had a huge amount of attention yet. I think Shona should mention that because it is very important.

Shona Dunn: You will recall that this is in the context of the statement that the Home Secretary made about DNA. He referenced the fact that it would be sensible in the context of moving towards a new immigration and border system for us to ensure that we have a borders, immigration and citizenship system that had the systems, structures and processes in place that made it best able to deliver that system. He has been considering



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terms of reference. He has been considering an approach to that review. Our expectation is that that review will be quite broad and will cover, as I say, systems, processes and structures, but will also look at some of the things that Ms Flint was talking about earlier, in terms of skills and training of our staff, to support them to do the best job they can.

Q182 Sir Geoffrey Clifton-Brown: That is a really important element. When will the review be launched and when do you expect it to be completed and considered?

Shona Dunn: Ministers are still considering both of those points right now, and they are also considering how to run it. They are actively considering that and they intend to make a further statement as soon as possible in the new year.

Q183 Chair: You have the spending review coming up. Does the review cover the changes to leave to remain? My constituents have lived through the change, as have I, as their MP. They used to pay once for a five-year leave to remain. Then they had to pay twice for two three-year leave to remain, to get their five years for citizenship. Now they have to pay three times for their leave to remain and then for their citizenship on top of that. Further, some cases have a £30,000 income threshold, depending on the exact status. There are a lot of costs in the system, which do not make it a very welcoming environment. I can see, however, that from the Home Office's point of view this is money, which should pay for good casework, but it doesn't seem to do that either—not very fast casework, anyway. Is that something that the review will look at—the challenges of going through the glue of the system? Each time, quite often, in many cases, you could be delayed at each of those two-year things, so you are dropping out and you lose work with your employer. Is that something that is considered?

Shona Dunn: The challenges of going through the glue of the system, as you describe it, are absolutely within what I expect the remit of the review to be. The question you raise about fees speaks to the question of the funding strategy, which I think is more, as you say, a question for the spending review.

Q184 Chair: It is more than the funding strategies. It is not just the fee; it is the frequency of the application, so that you don't just pay once a lot of money, you pay three times—in this case quite a lot money. Some constituents, although it is very challenging to raise the money, may be happier to pay once for this longer term, rather than constantly having to go through the administration system. Sometimes that has perverse outcomes—you have been granted it once and you are refused it a second time—which we never quite understand.

Shona Dunn: I see three broad things in there. It is worth me saying that I don't expect the review to be about policy decisions. I think that policy decisions and judgments that Ministers have made—

Sir Philip Rutnam: Policy objectives.



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Shona Dunn: Yes, policy objectives will not be part of the review; the glue wading through the system absolutely will be. The question about funding strategy will be part of the spending review.

Chair: So there are three different strands there. I think Ms Mahmood and I will get our heads together and see if we can work it out.

Q185 **Sir Geoffrey Clifton-Brown:** Are all the resources that you need for the taskforce fully funded?

Shona Dunn: Yes.

Q186 **Chair:** Was that funded by the Treasury or did you take it out of your own resources?

Sir Philip Rutnam: We have dealt with this in year, in the context of our financial plans for 2018-19. I have alluded to the scale of UKVI, so in 2018-19 we have managed this issue.

Q187 **Sir Geoffrey Clifton-Brown:** I would like to come on to the compensation scheme, if I may, Ms Luchford. When do you think the compensation scheme will be up and running?

Diana Luchford: As you know, we extended the consultation on the compensation scheme on the advice of the independent adviser, Martin Forde. Therefore, that closed on 16 November. Then there is a standard 12-week period for the Government to respond at the end of a consultation. We will be looking to respond within that timescale and we hope to be able to launch the scheme very soon after that.

Q188 **Sir Geoffrey Clifton-Brown:** Have you yet decided the exact form it will take? Will there be targets? Will there be discretion to vary those targets in individual really difficult cases? Have you made those decisions yet?

Diana Luchford: When you say targets, do you mean tariffs?

Sir Geoffrey Clifton-Brown: Yes.

Diana Luchford: Well, those are decisions for Ministers. We are looking at the design of the scheme at the moment and will provide advice on those issues. Then the design of the scheme will be announced in due course.

Q189 **Sir Geoffrey Clifton-Brown:** Will the funding for the scheme be announced? That is fairly critical. Although now it is a scheme, will you announce that it is funded?

Sir Philip Rutnam: We cannot and will not announce the scheme unless we are able to fund it. I reassure you that we are giving close attention to how we can ensure that it is funded.

Q190 **Sir Geoffrey Clifton-Brown:** Exactly. So where will it sit? Will it be additional Treasury funding, or will you find the money out of your own Department?

Sir Philip Rutnam: I would rather not necessarily answer that now. As you might imagine, we regularly have extensive discussions with the



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Treasury about the Department's finances. We will see whether that features within them.

Chair: I think that those of us who use the system regularly know that it has always been under-resourced. I am going to move on to Ms Mahmood briefly, and then I have a couple of questions.

Q191 **Shabana Mahmood:** I just wanted to follow up on the point about criminal convictions, and the Windrush generation and their children who might have a criminal conviction. What test is being applied to decide whether the seriousness of the offence either gets you to a grant of citizenship, indefinite leave or whatever, or results in a refusal? What legal test is being applied?

Sir Philip Rutnam: I shall have a go—Shona or Diana might correct me. There are different tests. The test for citizenship is good character.

Q192 **Shabana Mahmood:** But there is a specific question on the Windrush application form about criminal convictions, isn't there?

Sir Philip Rutnam: Yes.

Q193 **Chair:** The Home Secretary chose not to pursue some people. Clearly, they must be over a threshold for him to choose to do that.

Sir Philip Rutnam: My understanding of the good character test is that it is a custodial sentence of 12 months or more. If that has occurred, you would generally—I do not want to make it absolutely hard and fast—fail the good character test. People would still be granted—consistent with the 1971 Immigration Act—no time limit indefinite leave to remain in the United Kingdom, so that is just about citizenship. That is one issue around criminality.

Another issue is around the historical reviews. We excluded from the historical reviews—I mentioned the 11,800 historical cases that we examined—the cases which had a so-called criminal case type marker in the historical documentation. We have, on further examination, identified that actually, some of those are below that 12-month threshold.

Q194 **Shabana Mahmood:** I understand that. I was referring specifically to the applications that are made under the Windrush scheme. When somebody says and discloses that they have had some sort of prison sentence—maybe one, maybe more—what test is being applied to judge whether that person can regularise their status through any measure, whether citizenship, NTL or whatever, or is refused? As you said, Ms Luchford, some of the refusals are because of criminal convictions. I am trying to understand both the test and to make sure that it is being applied in a consistent manner across all cases.

Chair: Some of them may have been entitled to citizenship before they had their criminal convictions.

Shabana Mahmood: Exactly.



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Sir Philip Rutnam: My understanding is that evidence of criminality is not a bar to grant of NTL—no time limit indefinite leave to remain—because of the 1971 Act. Where it comes in and is relevant is whether or not, that NTL application can be effectively upgraded to citizenship.

Q195 **Shabana Mahmood:** On the increase that we have seen in refusals—from 41 to 186—which you, Ms Luchford, said was partly down to criminal convictions, how have those people fallen foul of what Sir Philip just said about a criminal conviction not being a bar to getting an NTL under the Windrush scheme?

Diana Luchford: Because those are citizenship refusals.

Q196 **Shabana Mahmood:** They are all citizenship refusals and nothing else? So those individuals remain within the NTL world forevermore?

Diana Luchford: Yes. They have other status that enables them to remain, but they do not qualify for British citizenship.

Q197 **Chair:** Sir Philip, earlier you talked about targets on driving licence removals. It was almost a throwaway comment. I wonder if you could explain what you mean by that.

Sir Philip Rutnam: It is referred to in the NAO Report that there was a target set by the Prime Minister's policy unit in 2014-15—a joint target to the DVLA and the Home Office for 10,000 driving licences to be revoked under this policy.

Q198 **Chair:** And that has now been abandoned?

Diana Luchford: It was just for one year.

Sir Philip Rutnam: It is no longer in force.

Q199 **Chair:** I will ask the bigger question about all of this. We are possibly about to leave the European Union; so far, that is scheduled for 29 March. There is going to be a lot of EU citizens—I have 41,000 in my borough alone—who have not got all the paperwork because they did not need it before. Sir Philip, how are you going to make sure that those people are not caught up in the same way that this generation of Commonwealth citizens have been?

Sir Philip Rutnam: There are two key points. The first is an unambiguous message from the Government, repeated again and again, that we want these people to stay, and that we are here to help them regularise their status as we leave the European Union. The second is to deliver on that by making the system for regularising their status—confirming their status—as easy and simple to use as possible.

Q200 **Chair:** It was supposed to have been implemented in November, and now there is a fast track for NHS workers. When can the 41,000 European citizens in Hackney alone regularise their status?

Sir Philip Rutnam: It is happening now. We have taken a quite deliberate approach to testing this system in so-called private beta now. It is in



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private beta. I believe it is open to anybody now in the higher education, health or social care sectors, which I am sure will include some of your constituents—not all 41,000, but some of them—

Q201 Caroline Flint: Hang on, I understand that you want to tie it in with certain sectors, but it is probably easier to reach people through their employers in the higher education and social care sectors than in the construction sector or other areas of the economy. When will the system be up and running for any EU national who is currently here to go online or phone up to find out what they have to do to regularise their status? When will that happen?

Sir Philip Rutnam: It is in private beta now. We worked it through in private beta exactly so we could get feedback. It will move into public beta in the new year. I am afraid I am not in a position to give you a date.

Q202 Chair: How long will it take people to go through the system? What is your target?

Sir Philip Rutnam: Shona might be able to answer that. It can be very, very quick.

Shona Dunn: Are you talking about an individual?

Q203 Chair: An individual.

Shona Dunn: An individual I think at the moment is going through on average in around seven to nine days. But the amount of time they have to spend on the system is very short.

Chair: Seven to nine days?

Shona Dunn: I think so. I might have to come back—

Q204 Chair: Give us an idea of what sorts of things they have to provide to go through the system and how much it is costing them.

Shona Dunn: There are three elements to the system. There is the identity check, there is—

Q205 Chair: That's an ID card or a passport?

Shona Dunn: That's right. Then there is the residency check, and then there is—

Q206 Chair: Which is payslips or a tenancy agreement?

Shona Dunn: Yes, although the way the system is set up, it will automatically pull any data from DWP or HMRC, so if you look at that screenshot you will see that what you need to provide is information for this year. It will ask you if you can fill in any gaps.

Q207 Chair: Okay. And the third thing?

Shona Dunn: The third thing is criminality.

Q208 Chair: Can I just be clear? There are constituents of mine who are



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European citizens, who came here properly—working—and then settled down. Some of them then had children and stopped working as a result, so they do not necessarily have bills in their name. They have their identity, but they do not necessarily have easy proof of their address—they may not have been working or claiming benefits recently—so how do they prove their status here? Isn't there going to be a problem for a lot of those people?

Shona Dunn: Of course individual cases will have very specific circumstances associated with them. If you cannot demonstrate the full five years, you will get pre-settled status, which will allow you to demonstrate those requirements up until the five-year point, at which point you can transfer to settled status.

Q209 **Chair:** Are you confident that employers will understand this system, given the problems I outlined earlier about biometric residence permits, which are causing absolute grief for my constituents?

Shona Dunn: There will be a great deal of communication around this, both for individuals and for employers. One of the things I would say is that, given that we have been in private beta 1 and 2 until now, we have not done an enormous amount of proactive communication. That will ramp up very rapidly in the new year—communicating to both the individuals who need to go through the scheme and those who may need to—

Q210 **Chair:** Will there be some sort of hotline or helpline for people?

Shona Dunn: Yes, absolutely.

Q211 **Chair:** Sir Philip, you talked earlier about the system not understanding what is going on. A number of times recently I have tried to refer things directly to the Minister in the belief that if I refer them to the Minister, there will be some overview of the problems, and I have been contacted by officials in your Department, who said, "Don't send it to the Minister; send it to us—you'll get the same response anyway." It has taken some effort to escalate to the Minister. I was a Minister in the Department, as was Ms Flint. We certainly used to respond to our letters. I just wonder what is going on in a system where we are constantly referred back to junior officials from the very people who should be overseeing the bigger problems. Is that going to happen with European citizens? I might take the other issue offline with you.

Sir Philip Rutnam: I am sorry if you have not had a satisfactory response. We seek to deal with inquiries from Members of Parliament very carefully, seriously and as quickly as possible, so if there is feedback that is not consistent with that, please—

Chair: I will get some specific examples and send them to you—

Sir Philip Rutnam: Please contact me or the Minister.

Q212 **Chair:** And if necessary, Sir Philip, I will write to you directly—

Sir Philip Rutnam: Please do.



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Chair: And then you'll see what the problems are.

Sir Philip Rutnam: Just another word: in its private beta stage at the moment, 1,000 applications a day are going successfully through this system, so it is going well. We are getting very positive feedback from individuals. Not all of them, I have to say, like doing this, but the customer experience of actually doing it is positive. We are not underestimating, though, the scale of the challenge. Of course there will be difficult cases. We are, however, putting a lot of effort also into, in particular, reaching the vulnerable. The Home Secretary announced £9 million to be spent specifically on outreach to vulnerable groups, and we have been working with lots of community organisations.

Q213 **Caroline Flint:** I just want to clarify something. Sir Philip, you said you hope the whole system will be live early in the new year. Can you give us any idea of what "early in the new year" means?

Sir Philip Rutnam: No, I am not going to offer a date, I'm afraid, but it will be in the new year.

Q214 **Caroline Flint:** In January, will that be?

Sir Philip Rutnam: In the new year.

Caroline Flint: Okay.

Sir Philip Rutnam: Sorry. Can I just make one other thing clear about that? The public beta early next year will be in its digital form. The assisted digital offering will come in on 29 March.

Q215 **Chair:** So if you are a European citizen on 30 March and you have not gone through this yet, what happens?

Sir Philip Rutnam: The system is open. Please apply.

Q216 **Chair:** Okay, but what happens to you practically, in your life, if you have not regularised your stay? I know the promises from the Prime Minister—

Sir Philip Rutnam: Are we talking about deal or no deal and going into that, or are we just talking about the operation of the system?

Q217 **Chair:** Either. Realistically, employers will still want to see bits of paper.

Sir Philip Rutnam: The Home Secretary has been very clear that, in any scenario, he will not be expecting any additional checks by employers, so just having an EU passport or identity card will be sufficient to prove your right to work in the United Kingdom.

Chair: That is nice and loud and clear for anyone out there who is listening and certainly for us to tell our constituents. Thank you very much indeed for your time. We will publish the transcript—thanks to our colleagues at *Hansard*—on the website, uncorrected, in the next couple of days. The report we produce will be available in January or February. Also, we quoted earlier from a letter from Sir Mark Sedwill. He is appearing in front of us on 1 April, so we may well return then to some of these points,



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as he was in the hot seat at the time. Thank you very much indeed for your time.