

Home Affairs Committee

Committee Office House of Commons London SW1A 0AA
Tel +44 (0)20 7219 2049 Email homeaffcom@parliament.uk
Website www.parliament.uk/homeaffcom

From the Committee Chair

Rt Hon Priti Patel MP
Secretary of State
Home Office
2 Marsham Street
SW1P 4DF

26 January 2021

Dear Home Secretary,

Changes to the Windrush Compensation Scheme announced on 14 December 2020

We welcome the decision to make changes to the Windrush Compensation Scheme that you announced on Monday 14 December.

These changes present the Home Office with an opportunity both to improve how the Scheme operates for people who apply, and to build trust in the Department's ability to deliver compensation swiftly and fairly. As you will be aware, we have raised a series of concerns and questions about the operation of the Scheme, and took further evidence on 9 December which was also critical of the Scheme. In order to understand the detail and the anticipated impact of these changes, please could you answer the following questions:

1. For the new early payment of £10,000:
 - What is the minimum amount of evidence required from individuals to demonstrate their entitlement under the impact on life category?
 - What kind of evidence would be accepted in order to demonstrate entitlement under the impact on life category?
 - For claims that are currently subject to a Tier 1 or Tier 2 review, will eligible claimants receive the £10,000 preliminary payment in advance of the outcome of the review? If not, why not?

2. Your December 2020 factsheet describes the new level 3 as an "amalgamation of levels 3 and 4 and everyone previously in those levels will now be in level 3". Why was the decision taken to amalgamate levels 3 and 4 of the initial impact on life tariff?
 - The description of the new level 3 is largely identical to the description of the old level 4. Could you explain in what ways these levels have been amalgamated? What assessment has been made of the impact of medical evidence now being "especially relevant" at level 3 as opposed to level 4 on the previous tariff?

- Of the offers made so far for impact on life against the old tariff, what proportion of claimants were offered a level 3 payment and what proportion were offered a level 4 payment?
3. The updated guidance for caseworkers indicates where the new levels in the impact on life tariff have equivalence with the old levels. However, the descriptions of the new levels appear to have changed; for example, some wording has been removed.
 - For new levels 2-4, can you explain the changes made to the wording as compared to the old levels 2-5? Why were level descriptors changed rather than simply moved, and what is the anticipated difference this could make to casework decisions?
 - Will individuals be required to provide different types of evidence or different amounts of evidence to demonstrate entitlement under the new levels? If so, please set out for each level within the new tariff how evidence requirements may differ from the equivalent level in the old tariff.
 - For individuals whose level of impact on life award has already been determined, will they now automatically receive the amount of compensation set out in the equivalent level under the new tariff? If so, by when should they expect to receive it? If not, why would the amount of compensation not be altered?
 4. Caseworkers are advised that supporting medical evidence “will be especially relevant for a claim which is being considered for a tariff payment at level 3 or higher.”¹
 - What training, guidance and procedures are in place to support caseworkers in deciding whether or not to commission a medical report in support of a claim for impact on life?
 - To date, how many medical reports has the Home Office commissioned to assist with its consideration of individual claims for impact on life? Please provide this figure both as the number of medical reports commissioned, and as a percentage of the number of offers made to date for impact on life.
 5. Can you give examples of exceptional circumstances in which an individual would be eligible for an impact on life award of over £100,000?
 - What supporting evidence might be required?
 6. Close family members remain ineligible for an award for level 1 impact on life and are therefore ineligible for the new early payment. When the Scheme was designed, why was the decision taken that close family members would be ineligible for a level 1 payment?
 - What consideration has been given to establishing an early payment mechanism for close family members as soon as they have demonstrated entitlement to a level 2 payment?
 7. To date, what is the average length of time it has taken for caseworkers to determine an applicant’s entitlement to an award for impact on life?

¹ Home Office, [Windrush Compensation Scheme: Casework Guidance](#), Version 6.0, 16 December 2020, p81

- How long, on average, do you anticipate it might take to determine an individual's entitlement to the new early payment for impact on life once their application is received?
8. To date, what proportion of offers made for loss of access to employment have been a) general awards; b) actual awards?
- How many offers of compensation have been retrospectively assessed since the standard of proof for an actual award was amended in October 2020?
 - Of those offers that have been retrospectively assessed, in how many instances has an individual been offered an actual award where they had previously been offered a general award?
9. What consideration has been given to the use of an individual's national insurance record, or Office for National Statistics data on employment, as a basis for calculating lost earnings in instances where an individual cannot evidence their salary to the standard of proof for an actual award?
10. How will you ensure that the "vast majority" of cases that are currently awaiting an offer are considered in the first 3 months of 2021?
- What resources are required?
 - What additional resources are you putting in?
 - Have changes been made to the workflow system in order to streamline how applications are processed? If so, please describe these changes, and explain why they are required.
 - How does the Home Office define "vast majority"?
 - What progress has been made on the 254 complex cases you informed this Committee of during oral evidence on 15 July?²
11. In his letter to this Committee on 11 November 2020, the Permanent Secretary said, "To ensure we give each claim the full and careful consideration it deserves we do not use benchmarks or set targets for how quickly they should be processed."³ However, a letter to all eligible applicants following the changes to the Scheme announced in December states that "Preliminary or final payment offers will start to be made from this week, and we will process as many as possible over the coming weeks and before the end of March 2021."⁴ Please explain whether targets or benchmarks have now been introduced to assist the compensation team in processing existing claims before the end of March 2021. If they have not, how is progress towards achieving this target measured? If targets have been introduced, why has the Home Office's position on the use of targets and benchmarks now changed, and will this change apply to new applications to the Scheme?
12. What steps will you take to ensure that the compensation team is sufficiently resourced to:

² [Q50](#)

³ [Letter from the Permanent Secretary on the Windrush Compensation Scheme](#), 11 November 2020, pp 1-2

⁴ [Letter from the Windrush Compensation team to all eligible applicants following the changes announced December 2020](#), 14 December 2020, p1

- Contact all applicants over the coming weeks to inform them of how changes to the Scheme will affect them;
 - Retrospectively apply the changes announced in October and in December;
 - Continue to process new applications at pace;
 - Respond to any increase in the number of applications in light of changes to the Scheme?
13. When will a revised economic impact assessment and a full equality impact assessment for the Scheme be published?
14. For what purposes do you anticipate that organisations will use the £500,000 Windrush Community Fund?
- How do you intend to monitor the impact and reach of this fund?

We are keen to monitor the implementation of these recent changes to the Scheme and their impact. In addition to the data published monthly, can you also provide quarterly updates to this Committee, beginning on 31 March, to include the following:

- Of the £750,000 fund for targeted advertising:
 - Available data on the number of people reached through advertising and any related events
 - Available demographic data on people reached through advertising and any related events
- To date, how many of the people who applied before the changes to the Scheme were announced have been contacted about how their application is affected, and how many people are yet to be contacted;
- To date, how many claims have been retrospectively assessed following these changes and how many claims are yet to be retrospectively assessed;
- To date, the number of claims received for impact on life and the number of these claims that have received the new £10,000 early payment;
- A breakdown of the number of the new £10,000 early payments made, using bands to indicate the time taken from receipt of the application to receipt of payment:
 - 1 month or less
 - 1-3 months
 - 3-6 months
 - 6-9 months
 - 9-12 months
 - 12-18 months
 - 18 months or more;
- The number of offers made for loss of employment and the proportion of these offers that are for a general award as opposed to an actual award;
- A breakdown, by reason given, of the number of zero entitlement claims (claims which meet the eligibility criteria of the Scheme but where a zero award is made under entitlement);⁵ and the number of claims rejected on eligibility grounds.

⁵ Home Office, [Windrush Compensation Scheme Data: December 2020](#), WCS_07, 17 December 2020

- A breakdown of the total number of final offers made -inclusive of the new early payment where applicable- which are a) accepted; b) pending acceptance; c) subject to review or otherwise refused, using bands to indicate their value:
 - £10,000 or less
 - £10,000-£25,000
 - £25,000-£50,000
 - £50,000-£100,000
 - £100,000 or more

Evidence session on 9 December 2020

On 9 December, the Committee took evidence on the Windrush Compensation Scheme from Jacqueline McKenzie and Holly Stow, legal professionals who have been working across many applications, and the Scheme's current independent adviser, Martin Forde QC. In light of the evidence heard by this Committee, please could you answer the following questions:

15. Can you explain the decision to award the contract for helping people with their applications, currently undertaken by Citizens' Advice, to We Are Digital?
 - What prior experience does We Are Digital have that makes them particularly suited to this work, and can you provide more information about their "strong links with community organisations"?⁶
 - How were the contracts between the Home Office and Citizens Advice and We Are Digital tendered and awarded, and what were the contract values and durations? How much has been paid to date and what is the budget for the completion of the contracts?
 - Will people still need to contact the Home Office in the first instance for a referral to the assistance provider and, if so, what consideration has been given to amending this requirement?

16. The Scheme Rules state that awards of compensation "will not be made in respect of... occupational pension schemes or other pension-related matters or entitlements." Why is this the case?
 - What assessment has the Home Office made of the particular impact of these Rules on the substantial numbers of older people in the Windrush cohort?
 - Are National Insurance contributions automatically adjusted to ensure that anyone who lost access to employment and benefits still receives the level of State Pension they would have received had their lawful status been recognised?

17. To date, of compensation offers made to individuals who have previously received an urgent and exceptional payment, in how many instances has the amount of this payment been recovered in full? In how many instances has it been recovered in part? In how many instances has an urgent and exceptional payment not been recovered?
 - What criteria is used by caseworkers to determine whether or not an urgent and exceptional payment should be recovered in full, in part or not at all?

⁶ Home Office, ['Windrush compensation scheme overhauled'](#), 14 December 2019

- What does the Home Office do to ensure that caseworkers understand the Scheme rules and principles of Double Recovery and apply them correctly?
18. What consideration did the Home Office give to providing legal support for applicants during the design of the scheme?
- Why did the Home Office decide not to include legal support and opt instead to contract a claimant assistance provider?
 - Given evidence suggests that some claimants do require legal support and are turning to commercial firms for assistance⁷, what further consideration will the Home Office now give to introducing access to legal support for claimants who require it?
19. On what basis did the Home Office proceed with its approach to mitigation of loss and the consideration of previous criminality?
- What consideration has been given to Mr Forde's advice on these elements of the Scheme since it became operational?
20. In how many instances has an award been reduced or declined on the basis of mitigation of loss?
21. On average, how long does it take caseworkers to establish that an individual has sought to mitigate their losses?
- How does this compare with the average time spent processing other aspects of a claim?
22. In how many instances has an award been reduced or declined on the basis of previous criminality?
23. People whose settled status lapsed as a result of the two-year rule, which was extended to Commonwealth citizens in 1988, are eligible to apply to the Windrush Scheme and potentially to receive compensation. However, caseworkers are advised that losses that occurred during periods of unlawful residence in the UK cannot be compensated.⁸
- What consideration has been given to the impact of the two-year rule on the compensation claims of those who, for reasons set out in Wendy Williams' review, did not realise that their lawful status was affected by its extension in 1988?
- In how many instances has a zero award been made under entitlement because an individual's status had lapsed due to the two-year rule?
24. When will a permanent independent adviser to the Scheme be appointed?
25. What role do the independent adviser, the Windrush Cross Government Working Group and you as Home Secretary have in auditing or sampling claims once processed?

Administration of the scheme

⁷ The Voice, '[Windrush: How you can get free help with your compensation claim](#)', 3 February 2020

⁸ Home Office, '[Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#)', Version 5.0, 9 October 2020, p 29

26. How many staff currently work for the Windrush Compensation Scheme, including caseworkers, management, and policy officials?
27. What is the total number of applications that has been made to the scheme? What is the current number of individuals who have a) been offered compensation; b) received their compensation; c) been refused compensation?
28. Could you provide a breakdown of applications based on where in the UK applicants' home addresses are?
29. What is the most common reason why applicants have been refused compensation: a) on the grounds that they are not eligible; b) that they are eligible, but receive a zero award under entitlement; c) any other grounds under which applications have been, or could be, refused.
30. Could you provide a demographic breakdown of a) applicants to the compensation scheme; and b) individuals who have received offers for compensation, to include gender, age and ethnicity?
31. What is the current average time for resolving each category of compensation claim? What is the current average time for resolving compensation claims in full?

Please respond by 16 February.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Yvette Cooper', written in a cursive style.

Yvette Cooper MP