



Home Office
2 Marsham Street
SW1P 4DF
www.gov.uk/home-office

Rt Hon. Yvette Cooper MP
Chair, Home Affairs Select Committee
House of Commons
London
SW1A 0AA

29 March 2021

Dear Chair,

Re: Windrush Compensation Scheme

I am writing in response to your letter dated 4 March, where you asked for further information on the Windrush Compensation Scheme following the evidence session on 24 February.

Changes to the Scheme announced in December

1. Regarding the Windrush Compensation Scheme, how many people have actually accepted the offer of early payment specifically, and how many have received the £10,000 payment? [Q.92]

Since April 2019 the Scheme has offered almost £18 million, of which £6.1 million has been paid.

Within six weeks of the changes announced in December, we had offered more than we had in the first 19 months of the scheme (at the end of January we had offered £12m) and since the end of December we have more than doubled the amount of compensation paid to individuals (from £2.8m to £6.1m).

As of 25 March 2021, the Scheme had offered 362 preliminary awards (totalling £3,620,000); of which 255 (£2,550,000) had been accepted. 228 awards (£2,280,000) had been paid.

a) When a claimant accepts their offer of an early payment, how long does it take for them to receive it?

Once an offer has been made, the person who receives it needs to accept that offer in writing, and then the Home Office has to go through standard financial procedures to enable the payment to be made. For preliminary payments of up to £10,000, it normally takes up to three weeks from an acceptance being recorded on our systems to a payment being sent.

2. You recently informed us that you expect 40-50% of cases will qualify for the new £10,000 preliminary payment on initial assessment. What might prevent a case from qualifying for the early payment during the initial assessment?

a) When a case does not qualify during the initial assessment, how is the reason for this communicated to claimants?

b) How are existing claimants and people who've yet to apply supported to understand the evidence they need to provide so they can receive the new early payment?

We will make a preliminary award if we can determine an individual has suffered detrimental impacts because they were unable to demonstrate their lawful status in the UK.

We will use the information someone has submitted as part of their claim, and anything additional we have been able to gather through the caseworking process to do this.

We will be unable to make a preliminary award if:

- limited evidence of information about losses or impacts has been provided, and/or
- it is not clear whether losses and impacts were caused by an inability to demonstrate lawful status. This means the caseworker is not yet satisfied on the balance of probabilities that a loss or impact has been suffered, because there has been an inability to demonstrate lawful status.

If we are unable to make a preliminary award to someone, we will write to them to let them know. When we do, we explain that this does not mean their claim has been unsuccessful and does not necessarily mean they will not receive compensation. We also explain that as soon as information is received or obtained that means we can make a preliminary award, we will do so. This is because while the first assessment for a preliminary award will take place within six weeks of eligibility for the Scheme being confirmed, caseworkers will continue to make preliminary awards throughout the case-working process.

As with all policy changes, we will continue to monitor how the process for preliminary payments is working and will consider making adjustments where this benefits those who apply to the Scheme.

c) How long, on average, does it take for caseworkers to complete the initial identity and eligibility checks on an application? How might these checks

affect the capacity for caseworkers to determine entitlement to the new early payment within six weeks?

In most cases eligibility is confirmed quickly, and the first preliminary assessment can be conducted within six weeks of application submission. Where an eligibility assessment will take longer, applicants will be written to with an explanation of the delay, with the assurance that preliminary consideration will begin as soon as they are deemed eligible for the Scheme.

3. You wrote to us that all primary and deceased estate claims are being considered for a preliminary award or a full and final offer unless they are “held due to an outstanding legal or policy issue.” What is meant by “outstanding legal or policy issue”? How many cases are affected?

A claim may be held because:

- the claim is on behalf of a deceased estate and we are awaiting evidence of probate;
- we are unable to confirm that an individual held lawful status in the UK at the relevant time and are awaiting clarification;
- the individual has a serious criminal record and we are considering whether it is appropriate to reduce their award.

The number of claims which are affected in this way will change from day to day and are only recorded on a live database, so it is not possible to give an exact answer. However, we expect that, due to an outstanding legal or policy issue, there will be around 50 applications from eligible primary or estate claimants pending on 14 December 2020 that will not be eligible for payment by the end of March 2021.

4. The monthly datasets on the compensation Scheme provide a breakdown of the number of claims which have received payment and the total value of those payments. Will future datasets make clear the number of cases where impact of life payments have been retrospectively increased?

In response to your question about future monthly datasets, the content of transparency data relating to the Windrush Compensation Scheme is under review. We will take the Committee’s views into account when considering how to take this work forward.

a) Will you commit to ensuring that payments that are retrospectively increased are not counted twice in statistics, as this could skew available statistics on the number of claimants who have received payments?

The Transparency data shows the value of payments made and the number of claims this relates to. Claims are only counted once even if they have received multiple payments.

Claimant support

5. We have heard that having to contact the Home Office to be referred to the claimant assistance service is off-putting to people who want to apply. Why do you consider this referral process to be necessary?

Referral via the Help Team is important as it enables us to assess individuals' eligibility prior to offering assistance. However, we note the suggestion that people should be able to contact We Are Digital (WAD) directly, and we will consider whether this is appropriate.

a) Have you consulted Martin Forde, the Windrush Advisory Group, or claimant representatives, on this arrangement?

This is a longstanding approach and is the one that we have taken since the Scheme began. As set out above we will consider this proposal.

b) We have been told that many claimants feel compelled to seek costly legal support with their applications. What consideration have you given to providing legal aid, a budget for applicants to spend on legal costs, or funding law centres and pro bono support for claimants?

We have designed the Compensation Scheme to be as clear and simple as possible, so people do not need legal assistance to make a claim. However, the Home Office provides free assistance in making applications through our independent claims assistance provider – We Are Digital (WAD) - for those who want or need support to make a claim.

WAD has extensive experience of dealing with isolated and vulnerable customers and in delivering support and advice, either over the phone, via remote video session or in person through community-based centres including Citizens Advice, libraries, town halls, church groups and Mosques. They have successfully operated the Assisted Digital Service for the EU Settlement Scheme for the last three years and have shown a strong ability to deliver.

If we were to allow applicants to recover legal costs for their Scheme application, then it might encourage organisations to take advantage of potentially vulnerable individuals by charging them for unnecessary claim support.

c) How do you ensure that people who fill in the form by themselves, without legal or claimant assistance support, are not disadvantaged?

To ensure that those who complete their own forms are not disadvantaged, all claims are allocated to a caseworker. The caseworker will review the information and evidence provided with the claim form and work closely with individual to understand their experience. They will also help to identify and gather additional information from them or third parties, which may support and strengthen their claim.

This is the case irrespective of whether individuals have had prior legal or claimant assistance. Our primary objective is to ensure that everyone receives the maximum compensation to which they are entitled.

Communication with Caseworkers

6. The Home Office's written evidence to our inquiry says that "Our aim is not to require individuals to provide unnecessary details, only the minimum evidence necessary to maximise the payment they receive." In how many, and what proportion, of cases have people been asked to resubmit information already provided? In how many cases, and what proportion of cases, has the reason given for requesting resubmission been because the application or evidence had been lost?

We do not centrally record information relating to resubmission of information from claimants.

However, information previously provided as part of an older immigration application may be requested from an individual, if it supports their claim and a copy is not available from the Home Office. We may also ask individuals about things they have previously told us, where further detail would support or strengthen their claim. But caseworkers will exhaust all internal routes before asking for more information from individuals.

We accept that we need to continuously seek to improve the way we communicate and so we are currently conducting a review of all forms, guidance and training for the Scheme. This will include reviewing all letters currently used to ensure they are clear and easy to understand. We will be asking key stakeholders to participate in this exercise.

If the committee are aware of cases where they are concerned, we have not followed these principles and can provide us with further detail on them then we are happy to investigate.

7. You told us during oral evidence that staff training was encouraging empathy and improving the way in which the Home Office communicates with individuals. We have been told of a request for further evidence which contained 34 separate items, including questions such as "How did you feel when you were brought into a room at the enforcement centre and asked questions?" Is this in line with the approach recommended in staff training?

a) How will the improvements to communication you spoke of ensure a better experience for people who apply to the Windrush Compensation Scheme?

Further information will only be requested where we think it will strengthen or support someone's claim for compensation and enable us to award more compensation. And as set out above, we will only request this once caseworkers have exhausted all internal routes.

Where more information is required, we will phone individuals first to explain what we are asking for and why. We will follow this up in writing, so individuals have a record of our request. However, this written request may not always capture the full discussion that was had with an individual and the reasons and context behind some of the questions being asked. For example, we might ask individuals to divulge painful and sensitive information about a past situation such as enforcement action. This is done to ensure that the compensation we award for Impact on Life accurately reflects their experiences and the impacts these had on them.

If the committee are aware of cases where there is concern that we have not followed these principles, and where they can provide us with further detail, then we would be happy to investigate.

Impact on Life

8. You told us that the Home Office has not yet needed to commission a medical report to assist with determining a claim for impact on life. How does the training and guidance available to caseworkers equip them to determine whether, for example, “Short periods of focused medical treatment may have been necessary” (Level 3) or whether there have been “Profound impacts on a claimant’s life which are likely to be irreversible” (Level 5) without expert medical advice and assistance?

By talking with individuals and listening to them, caseworkers develop a comprehensive understanding of an individual’s experiences and struggles, and the effects and impacts these had on them. A full Impact on Life assessment is usually made at the end of the case working process, which allows caseworkers to draw upon all the evidence that has been provided and subsequently gathered to make a holistic assessment of the effect on an individual’s life and determine the level of compensation to be awarded.

Level 5 awards have been made without medical evidence because we have been able to see evidence of profound and irreversible impacts on an individual.

Loss of access to employment

9. You told us that there are data sharing agreements with HMRC. In what circumstances can data provided by HMRC be used to calculate an award for actual losses and in what circumstances is this not possible, and why? Where HMRC data cannot be used to calculate an award for actual losses, what consideration has been given to the use of other available data, such as ONS employment statistics, to enable claimants to receive an award that better reflects their actual losses?

a) Can you further explain your response in your letter of 16 February 2021 that limiting everyone in these circumstances to the national living wage “ensures the Scheme remains fair”?

Where data is available from HMRC, this will be used to calculate an award for loss of access to employment unless this would result in an award that is less generous than a general award, in which case a general award would be given.

Where data is not available from HMRC, we make general awards using the monthly tariff of £1,147, adjusted on a pro-rata basis for part time working, which is equivalent to the national living wage when the Scheme was launched.

We believe this ensures the Scheme remains fair because of the range of employment types and sectors amongst individuals making claims, and the varying availability of historical salary data to support the calculation of employment awards.

Reviews

10. Evidence we have received questions the independence of the Tier 2 review process. This is partly because the Adjudicator's Office can't enforce its recommendations to the Home Office. Why has the Home Office retained the right to refuse to implement recommendations made following a Tier 2 review?

The Adjudicator's Office is a separate organisation, independent of the Home Office.

While the Adjudicator's Office falls within the same legal entity as the Commissioners of Her Majesty's Revenue and Customs (HMRC), the Adjudicator is an office holder, not an employee nor an officer of HMRC, and is external to HMRC with the independent personal authority to review complaints.

The Home Office retains the right to not accept or implement the recommendations of the Adjudicator's Office (AO) in case of misinterpretation of the Scheme rules by the AO; or where it is felt to be inappropriate to reduce an award made to an individual. We have not needed to do this so far.

Urgent and exceptional payments

11. To date, how many applications for an urgent and exceptional payment have been received? How many payments have been made and what is the value of these payments?

The policy on support in urgent and exceptional circumstances was launched in December 2018 to provide financial assistance in exceptional cases in advance of the launch of the Windrush Compensation Scheme. The policy has remained in place following the launch of the Compensation Scheme in April 2019 and we have continued to consider requests for urgent and exceptional support where individuals have not yet been able to make a claim, or cannot wait for a compensation claim to be assessed.

Following the Windrush Compensation Scheme rule changes introduced in December 2020 (including the increased minimum award under the Impact on Life category and early preliminary payments), an updated policy was published on 23 February 2021 and is available at:

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963002/Windrush_Compensation_Scheme_-_support_in_urgent_and_exceptional_circumstances.pdf

The following table details the status of requests for support under the policy, to the end of February 2021:

Period	Requests for support	Under Consideration	Approved	Declined	Withdrawn
To end February 2021	178	4	55	104	15

The total value of the payments approved is £104,338.58.

Information about exceptional payments is due to be released as part of transparency data. However, as the information is of interest to the wider public and has previously formed an important part of Committee updates on Home Office work around Windrush, it is being provided here, ahead of publication. In future, this information will be available as part of the wider Windrush Compensation Scheme transparency data published on Gov.UK.

a) To date, how many individuals have received support from the Vulnerable Persons Team? What types of support does the Vulnerable Persons Team continue to provide

Our Vulnerable Persons Team provide dedicated help and advice to individuals where safeguarding and vulnerability issues are identified. The team works with government departments, the NHS, police, housing providers, employers, utility providers and landlords to find practical solutions to vulnerability issues.

The support provided is tailored to the needs of each individual and may include providing practical advice and signposting. Where appropriate, the team may also liaise with other organisations on an individual's behalf and make direct contact with, for example, an individual's landlord or utility provider in order to resolve issues wherever possible.

To the end of February 2021, the Vulnerable Persons Team had provided support to 1,791 individuals.

Information about the number of people supported by the Vulnerable Persons Team is due to be released as part our commitment to publishing transparency information. As with exceptional payments, we are aware that this information is of interest to the wider public and has previously formed an important part of Committee updates on Home Office work around Windrush. Therefore, it is being provided here, ahead of publication. In future, this information will be available as part of the wider Windrush Compensation Scheme transparency data published on GOV.UK.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'P. Patel', written in a cursive style.

Rt Hon Priti Patel MP
Home Secretary