



House of Commons  
Home Affairs Committee

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# The Windrush Compensation Scheme

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**Fifth Report of Session 2021–22**

*Report, together with formal minutes relating  
to the report*

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## Home Affairs Committee

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## Summary

The Windrush scandal that emerged in the summer of 2017 revealed the huge injustices and hardship faced by members of the Windrush generation who had been denied their lawful immigration status as a result of Home Office policies and practices over very many years. Successive Home Secretaries have subsequently promised to right the wrongs experienced by members of the Windrush cohort, and to recognise the financial loss and emotional distress that Government actions caused. Following recommendations from our predecessor Committee, the Department established the Windrush Compensation Scheme in April 2019.

This inquiry was prompted by serious concerns about long delays and difficulties in applying for the compensation scheme. We are seriously troubled that instead of providing a remedy, for many people the Windrush Compensation Scheme has actually compounded the injustices faced by the Windrush generation.

Our inquiry found that the vast majority of people who have applied for compensation have yet to receive a penny: for some, the experience of applying for compensation has become a source of further trauma rather than redress, and others have been put off from applying for the scheme altogether. We are deeply concerned that as of the end of September, only 20.1% of the initially estimated 15,000 eligible claimants have applied to the scheme and only 5.8% have received any compensation. It further compounds the Windrush scandal that twenty-three individuals have died without receiving compensation for the hardship they endured.

We identified a litany of flaws in the design and operation of the Windrush Compensation Scheme, which we explore in this report. These include: the excessive burden on claimants to provide documentary evidence of the losses they suffered; long delays in processing applications and making payments, and inadequate staffing of the scheme; a failure to provide urgent and exceptional payments to individuals in desperate need, and delays in launching and adequately supporting grassroots campaigns designed to reach eligible claimants and rebuild confidence in the Department and the scheme. Ultimately, many of the concerns raised with us about the compensation scheme as part of this inquiry echo the same criticisms made of the Home Office by Wendy Williams in her Lessons Learned Review. We can only conclude that four years on from the Windrush scandal, vital lessons have still not been learned by the Department.

We strongly welcome the changes made in December 2020 to accelerate payments and make improvements to the scheme; however, we are concerned that these changes do not go far enough and we make a number of recommendations for further action.

The Windrush generation are an ageing cohort and urgent action is needed to speed up payments. We call for the preliminary £10,000 impact on life award to be provided within two months to all those the Department has previously acknowledged were wrongly subjected to immigration enforcement measures or were wrongly denied proof of their lawful status as a result of the Windrush scandal, irrespective of whether the claimant can evidence harm or financial loss, to ensure that every individual affected is granted some compensation quickly.

We are concerned that too many people who cannot document what their earnings were or would have been are receiving a general award for loss of access to employment which is limited to the 2019 National Living Wage. We recommend increasing the general award tariff to at least next year's National Living Wage of £9.50 per hour.

We heard from individuals who said they needed legal support to access and engage with the scheme,<sup>1</sup> and the scheme's former independent adviser, Martin Forde QC, told us applications completed with legal assistance would speed things up "dramatically".<sup>2</sup> We therefore urge the Home Office to guarantee access to legal assistance for all claimants who require it.

We are very concerned that many people are still too fearful of the Home Office to apply for compensation. The Home Office should bolster its support for grassroots campaigns and community outreach work, ensuring that those in which the community has confidence are adequately supported in their work to reach eligible claimants and to restore their confidence in the Department and the scheme.

We consider the establishment of a more robust and efficient review process to be an important step in improving confidence in the scheme. We therefore call on the Home Office to establish a demonstrably independent single-stage review process in which claimants have greater confidence, such as a judge-led panel.

The treatment of the Windrush generation by successive governments was truly shameful. No amount of compensation could ever repay the fear, humiliation, hurt and hardship that was caused to individuals who were affected. That the design and operation of this scheme contained the same bureaucratic insensitivities that led to the Windrush scandal in the first place is a damning indictment of the Home Office, and suggests that the culture change it promised in the wake of the scandal has not yet occurred. In order to increase trust and encourage more applicants, we believe that the scheme should be transferred to an independent organisation. We also urge Wendy Williams to look at the compensation scheme as part of her review of the Home Office's progress on her recommendations.

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1 Glenda Caesar([WCS0025](#)); Christian Hayibor ([WCS0025](#)); Mr Williams ([WCS0021](#)).

2 [Q62](#).



# 1 Introduction

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## Background

1. In late 2017, stories emerged that longstanding UK residents were being wrongly classed as illegal immigrants and consequently denied access to employment, healthcare, housing and other services in the UK. In some cases, people who had every right to live in the UK were targeted for removal, held in immigration detention, deported or prevented from returning to the UK from visits abroad.<sup>3</sup> Upon trying to resolve their status with the Home Office, they faced obstacles such as “often insurmountable”<sup>4</sup> requirements for decades-worth of evidence to demonstrate their time in the UK<sup>5</sup> and significant application fees.<sup>6</sup> Their story has come to be known as the ‘Windrush scandal’, in reference to the ship HMT Empire Windrush on which citizens from the Caribbean first arrived in 1948 to help rebuild a post-war United Kingdom.

2. Whilst attention initially focused on people from Caribbean Commonwealth countries, particularly the ‘Windrush generation’,<sup>7</sup> people from other Commonwealth and non-Commonwealth countries have also been affected.<sup>8</sup> The children and grandchildren of people who could not evidence their lawful status have also faced difficulties.<sup>9</sup> On 23 April 2018 the then Home Secretary, Rt Hon Amber Rudd MP, apologised to all those affected and committed to compensate individuals for the losses they had suffered.<sup>10</sup> She acknowledged that measures designed to combat illegal immigration, introduced by successive governments from the 1980s onwards, “had an unintended, and sometimes devastating, impact on people from the Windrush generation”.<sup>11</sup>

### *How many people were affected?*

3. Many thousands of people suffered the consequences of having their lawful immigration status wrongly denied through the design and operation of government policies. But four years after the Windrush scandal broke, the Government does not have a confirmed figure for the total number of people affected.

4. The Census 2011 recorded that 57,000 people who arrived in the UK from Commonwealth countries before 1971<sup>12</sup> did not hold a UK passport.<sup>13</sup> While this may give some sense of the potential scale of the population who could have been affected by

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3 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, pp23–25.

4 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p99.

5 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, pp98–99.

6 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p101.

7 ‘Windrush generation’ refers to people invited to the UK from Caribbean countries between 1948 and 1971. The ship the first migrants arrived on, which arrived at Tilbury in Essex on 22 June 1948, was called HMT Empire Windrush.

8 [Q12](#).

9 [Q34](#), Martin Forde QC.

10 HC Deb, 23 April 2018, [col 622](#) [Commons Chamber].

11 [Home Secretary statement on the Windrush generation](#), 23 April 2018.

12 The Immigration Act 1971 entitled people from Commonwealth countries who were ‘ordinarily resident’ in the UK by 1 January 1973 (when the Act came into force) to the ‘right of abode’ or ‘deemed leave’ to remain in the UK. Documentation confirming status was not automatically issued to individuals, and the Home Office did not have a central record of people affected.

13 Office for National Statistics, [CT0801\\_2011 Census - COB \(UK, Commonwealth, continent\) by YR arrival by passport - Nat to region](#), (accessed 19 July 2021).

the scandal, it is not necessarily an indicator of the number of people who may have been unable to demonstrate their lawful status: people may have UK citizenship but not a UK passport, or may hold other types of documentation instead.<sup>14</sup>

5. Whilst the Home Office sought to identify people who may have been wrongfully detained or deported, or whose data was wrongly shared with other Government departments for the purpose of initiating hostile/compliant environment<sup>15</sup> sanctions, it limited this review to individuals of Caribbean Commonwealth nationality.<sup>16</sup>

6. The Home Office established the Windrush Scheme in May 2018.<sup>17</sup> The Windrush Scheme enables eligible people to apply for documentation to demonstrate their lawful status. It is free to apply and, if eligible, people can also make a free application for British citizenship.<sup>18</sup> Over 13,800 people have been issued with documentation or British citizenship under the scheme.<sup>19</sup>

7. Following a public consultation, the associated Windrush Compensation Scheme (the scheme) was launched on 3 April 2019.<sup>20</sup> This gave effect to the commitment made by the previous Home Secretary, Rt Hon Amber Rudd MP, that those affected by the Windrush scandal would receive compensation. The Home Office announced that it would be a time-limited scheme, giving an opportunity of two years for individuals to come forward and claim for impacts they had suffered whilst they were unable to demonstrate their lawful status.<sup>21</sup>

8. Given its inability to identify the victims of the Windrush scandal, nearly four years since the scandal emerged the Government does not know how many people may be eligible for the Windrush Compensation Scheme.<sup>22</sup> The Home Office's original planning assumption was that it would receive 15,000 eligible claims with an estimated scheme cost of £120m-£310m.<sup>23</sup> A revised impact assessment published in February 2020 lowered this planning assumption to 11,500 eligible claims with an estimated scheme cost of £60-£260 million.<sup>24</sup>

9. In July 2021, the Home Secretary announced that the Department's planning assumption had been lowered again to 4,000-6,000 claims. The revised planning

14 Migration Observatory at the University of Oxford, '[Commonwealth migrants arriving before 1971, England and Wales, 2011 Census](#)', (accessed 19 July 2021).

15 Hostile/compliant environment policy refers to a range of measures designed to make it more difficult for irregular migrants to live, work and access services in the UK. The measures include requirements for individuals to demonstrate their immigration status, requirements on those providing certain services to check documents, and data-sharing arrangements between the Home Office and other government departments or external organisations.

16 See paragraphs 44-47 and 51 for further consideration of the Home Office's historical cases review.

17 [Correspondence from the Home Secretary: Home Office update on Windrush](#), 10 July 2018.

18 Gov.uk, '[Windrush Scheme](#)', (accessed 19 July 2021).

19 Gov.uk, '[Windrush Compensation Scheme factsheet - August 2021](#)', (accessed 27 September 2021).

20 Gov.uk, '[Home Secretary launches Windrush Compensation Scheme](#)', (accessed 27 November 2020).

21 In February 2020 the Scheme was extended for two years; see Gov.uk, '[Windrush Compensation Scheme extended by 2 years](#)', (accessed 21 June 2021). On 21 July 2021, the Home Secretary announced that that the formal end date for the Scheme had been removed; see [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

22 Home Office, '[Windrush Compensation Policy](#)', 29 January 2020, p2.

23 Home Office, '[Windrush Compensation Policy](#)', 9 January 2019, p2.

24 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

assumption is based upon information from the Windrush schemes and “some judgment where information is limited”.<sup>25</sup> The cost estimate for the scheme is £171 million to £215 million.<sup>26</sup> At the time of writing, a revised impact assessment had yet to be published.

### **Concerns about the Windrush Compensation Scheme**

10. Of the initially estimated 15,000 people who are eligible for compensation, to date only 3,022 people have applied and 864 people have received compensation.<sup>27</sup> During its first year of operation, the scheme began to attract criticism for making payments too slowly.<sup>28</sup> In spite of the initial Government estimates set out above, fewer than 1,300<sup>29</sup> claims were submitted during the first twelve months of the two-year scheme, and just £360,000<sup>30</sup> was paid to 60 claims.<sup>31</sup> Sadly, 23 people who applied to the scheme have died before receiving their compensation.<sup>32</sup> Where offers of compensation were received, there were concerns about whether they reflected the impacts suffered and the extent to which people were being compensated for their financial losses.

Anthony Williams arrived in the UK from Jamaica in 1971 when he was seven years old. He served in the British army for thirteen years and then went on to work as a fitness instructor.

In 2013, he was wrongly classed as an illegal immigrant and sacked. Mr Williams was left unable to work or access benefits because he could not demonstrate his lawful status. He was also unable to register for a doctor’s appointment or see a dentist. Consequently, when a tooth infection began to spread, Mr Williams lost most of his teeth.

Mr Williams applied for compensation within a week of the scheme opening in April 2019. In September 2019, he received a phone call from the compensation team and was asked if he could provide a payslip from his employer. Mr Williams advised that he was unable to provide this because his employment was terminated before he received payment. In January 2020, Mr Williams was asked again if he could provide evidence of his salary. He was also assured that he would soon receive his offer of compensation.

25 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

26 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

27 Home Office, [‘Windrush Compensation Scheme data: October 2021’](#), 28 October 2021, WCS\_01, WCS\_05.

28 See for example The Guardian, [‘Only 3% of Windrush claimants have so far received compensation’](#), 6 February 2020, BBC News, [‘Windrush: Campaigners criticise ‘paltry’ payouts’](#), 7 February 2020, The Telegraph, [‘Only five per cent of Windrush compensation claims settled in first year as Government bids to help victims’](#), 28 May 2020.

29 1,277; Home Office, [‘Windrush Compensation Scheme data: September 2021’](#), 22 September 2021, WCS\_01.

30 £362,996.92

31 Home Office, [‘Windrush Compensation Scheme data: June 2021’](#), 24 June 2021, WCS\_05.

32 [Q300](#), (Matthew Rycroft CBE).

Mr Williams received his first compensation offer six months later, in July 2020. As he was unable to provide documentary evidence of his salary, his award for loss of access to employment was limited to twelve months.<sup>33</sup> In total, for the five years in which his life was affected, Mr Williams was offered approximately £18,000 compensation.

In December 2020 Mr Williams, having requested a review of his compensation offer, said “Even now, I’m still having problems. I still don’t sleep. And it’s because of the compensation scheme. In the back of my mind now, because I survived five years of virtually living on nothing, the money is secondary now. My sanity is top of the game now to me”.

Source: Mr Williams, ([WCS0021](#), [WCS0025](#)); The Guardian, [‘I feel targeted’: Windrush victim decries compensation delays as racism](#), 21 June 2020.

11. Concerns also grew as to whether people were being adequately supported to make a claim. In August 2020, nine law firms wrote to the Home Secretary and highlighted the complex nature of Windrush compensation applications. They wrote that some people had suffered multiple impacts over many years and raised concerns about the decision not to provide legal support for claimants. The letter stated that the impacts of the Windrush scandal on individuals included:

stress and anxiety, humiliation, loss of income, high levels of debt, breakdown of relationships, addiction problems, and degrading treatment. Some individuals [have] been denied access to healthcare for serious physical and mental health conditions. These losses are not straightforward to identify, evidence and quantify ...

... the Windrush compensation scheme is not currently operating in a way that provides fair and effective access to justice for members of the Windrush generation.<sup>34</sup>

In November 2020, The Guardian reported that Alexandra Ankrah, who worked as head of policy in the Windrush Compensation Scheme team, had resigned “because she lost confidence in a programme that she alleged was ‘not supportive of people who have been victims’ and which ‘doesn’t acknowledge their trauma’”.<sup>35</sup>

33 There are two types of compensation award for loss of access to employment: an actual award, which compensates individuals for their actual losses if they meet the conditions for an award and can demonstrate what their earnings had or would have been, and a general award, which uses a set tariff to calculate compensation in cases where an individual meets the conditions for an award but cannot demonstrate what their earnings had or would have been. Initially, general awards were limited to 12 months. As of December 2020, general awards for loss of access to employment are no longer limited to 12 months. Up to £1,147 a month can be awarded for the full period of loss a claimant is able to demonstrate.

34 The Guardian, [‘Windrush payout scheme not fit for purpose, say lawyers](#)’, 27 August 2020.

35 The Guardian, [‘Black official quit ‘racist’ Windrush compensation scheme](#)’, 18 November 2020.

Glenda Caesar was one of the first to receive an offer of compensation. Ms Caesar came to the UK from Dominica in 1961 when she was three months old. She worked in the NHS for over 20 years.

In 2009, Ms Caesar was wrongly sacked from her role as a GP practice administrator when she was unable to provide proof of her lawful status to her employer. She was also denied access to unemployment benefits. Ms Caesar subsequently accrued thousands of pounds of rent arrears. Whilst returning from overseas with her sister using her Dominican passport, she was also wrongly detained for a few hours at Gatwick airport. Ms Caesar was told that, should she leave the country again, she would not be able to re-enter the UK.

In December 2019, following ten years of being unable to work, Ms Caesar was offered approximately £22,000. She rejected this initial offer, describing it as “insultingly low”.

Reflecting on her experience of applying for compensation, Ms Caesar said there was little support for claimants to complete their applications and that she “really needed legal help”.

Source: Glenda Caesar ([WCS0025](#)); The Guardian, [‘Windrush victim rejects ‘insulting’ offer of £22,000 payout’](#), 17 December 2019.

12. Wendy Williams’ inquiry into the events leading up to the Windrush scandal, and the lessons learned from them, which reported on 19 March 2020, identified serious problems in culture and policies within the Home Office. She found that the Department had “lost sight”<sup>36</sup> of the potential for the Windrush generation to be disadvantaged by immigration policies and had created an operating environment in which there was “a culture of disbelief and carelessness when dealing with applications”.<sup>37</sup> The Home Secretary and the Permanent Secretaries welcomed the report and set actions for change. The inquiry did not however look at either the design or the operation of the compensation scheme.

13. On 14 October 2020 we took oral evidence from Wendy Williams.<sup>38</sup> Ms Williams told us that while the compensation scheme had been outside the remit for her review, it is “the single issue that is raised the most with [her] by people who have been affected since the report was published”<sup>39</sup> and she expressed surprise at the low number of compensation payments made.<sup>40</sup>

14. On 14 December 2020 the Home Office announced changes intended to improve the scheme. Impact on life payments were raised: the minimum award was raised from £250 to £10,000, and the highest level of award was raised from £10,000 to £100,000.<sup>41</sup> The Department also introduced a new early payment mechanism for impact on life, enabling eligible claimants to receive a £10,000 preliminary award as soon as they can demonstrate an impact on their life under the terms of the scheme. The 12-month cap on general awards

36 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p149.

37 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p7.

38 The Home Office asked Wendy Williams, HM Inspector of Constabulary and Fire and Rescue Services, to lead an independent review of the events leading up to the Windrush scandal. Her report, [‘Windrush Lessons Learned Review’](#) was published in March 2020.

39 [Q108](#).

40 [Q109](#).

41 Higher awards may be made in ‘exceptional circumstances’.

for loss of access to employment was also fully removed from the scheme, enabling eligible claimants to receive compensation for the full period during which they were out of work. Both actual and general awards for loss of access to employment are now determined ‘on the balance of probabilities’.<sup>42</sup>

## Our inquiry

15. As a result of the serious concerns raised around delays and difficulties with the Windrush Compensation Scheme, we launched our inquiry into the scheme on 19 November 2020, and invited further evidence following changes to the scheme in December 2020. To help us understand how the scheme is operating in practice, on 1 December 2020 we held a roundtable event with six people who have applied for compensation.<sup>43</sup> Members of staff from the Select Committee Engagement Team and Committee staff also held interviews with people who have applied.<sup>44</sup> We acknowledge the difficulty people face in discussing what has often been a very painful and traumatic period of their lives, and we are extremely grateful to everyone who shared their direct experience of the issues with us.

16. We have received more than 30 pieces of written evidence, including several written submissions from individuals who have applied to the scheme. On 9 December 2020 we heard oral evidence<sup>45</sup> from Martin Forde QC, then independent adviser to the scheme who also advised on its consultation and design, Holly Stow, a senior caseworker at North Kensington Law Centre who was assisting with approximately 50 claims, and Jacqueline McKenzie, a Solicitor and Immigration Adviser at McKenzie Beute and Pope who was assisting with approximately 200 claims. We have also put questions on the compensation scheme to senior Home Office officials and to the Home Secretary, both in person and in writing.<sup>46</sup>

17. As we shall show in greater detail in later sections of our report, we were told that the process of applying for compensation and awaiting an offer is difficult for claimants, and that offers of compensation do not necessarily reflect the losses and impacts suffered. Thomas Tobierre, who had exhausted the review process following receipt of his compensation offer, said “If they gave me what I’ve lost, we could part our company, I’d carry on. [ ... ] when you’re dealing with those impacts and someone is basically giving you crumbs for what you’ve lost and not showing you any sort of compassion over it, it’s

42 Gov.uk, ‘[Windrush Compensation Scheme factsheet - December 2020](#)’, (accessed 26 October 2021).

43 Dominic Akers-Paul, Glenda Caesar, Christian Hayibor, Gertrude Ngozi Chinegwundoh, Carl Nwazota, Grace Nwobodo, Holly Stow, and Anthony Williams ([WCS0025](#)).

44 Mr Thomas Tobierre and Ms Charlotte Tobierre ([WCS0022](#)), Mr Anthony Williams ([WCS0021](#)).

45 [Q1–67](#).

46 [Q49–75](#), [Q50–52](#), [Q90–93](#), [Q237–239](#), [Letter from the Home Secretary on Windrush update](#), 28 April 2020; [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 19 June 2020; [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 30 June 2020; [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 7 September 2020; [Letter from the Permanent Secretary to the Chairs of Home Affairs Committee and PAC on the Windrush Compensation Scheme](#), 20 October 2020; [Letter from the Permanent Secretary on the Windrush Compensation Scheme](#), 11 November 2020; [Letter to the Home Secretary on changes to the Windrush Compensation Scheme in December 2020](#), 26 January 2021; [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021; [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 4 March 2021; [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021; [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021; [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 8 September 2021; [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.



hard”.<sup>47</sup> Christian Hayibor, who had requested a review of his compensation offer, told us “we feel like nothing has changed” and said he had given his case to his representative “because [he] can’t deal with the Home Office any more”.<sup>48</sup>

18. Campaigners have suggested alternative approaches to compensation and scheme design. In particular, it has been argued that the scheme should have been administered independently of the Home Office.<sup>49</sup> In oral evidence, Mr Forde said he was “very troubled” by the Home Office being responsible for the scheme because it is not typical practice for the body that caused the loss to control the amount of compensation awarded.<sup>50</sup> It has also been suggested that a £10,000 reparations payment should be awarded to individuals, in addition to any compensation they are entitled to.<sup>51</sup>

19. Our report considers how people are experiencing the scheme as designed and administered by the Home Office, and our recommendations are focused on changes which would have an immediate impact on the scheme’s effectiveness.

20. We look first at why so few people have applied for compensation compared to the numbers originally estimated to be eligible for the scheme. We then turn to the long delays and difficulties for those who have applied, and look in subsequent chapters at problems with the application process, the decision-making criteria, the review process, and the operation of the Urgent and Exceptional Payment Scheme.

21. During our inquiry, the National Audit Office (NAO) opened an investigation into the compensation scheme. It published its report in May 2021.<sup>52</sup> In November 2021, the JUSTICE Working Group on the Windrush Compensation Scheme published its report.<sup>53</sup> We welcome this additional expert scrutiny of how the scheme is operating and have sought in this report to build upon the findings by the NAO and the JUSTICE Working Group.

**22. We are deeply concerned that, as of the end of September, only 20.1% of the initially estimated 15,000 eligible claimants have applied to the scheme and only 5.8% have received any compensation. The troublingly low level of applications and payments are evidence enough that the scheme has not worked as intended. It is even more distressing that twenty-three people have died before receiving any Windrush compensation payment.**

***23. Many people who have applied for compensation have yet to receive a penny and we have heard too many stories of people struggling with impossible demands for evidence, poor communication from the Home Office and a lack of understanding of the issues they faced. For some, the experience of applying for compensation from the Home Office has become a source of further trauma rather than redress. Many of the concerns raised with us about the Windrush Compensation Scheme as part of this inquiry have echoes***

47 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

48 Christian Hayibor ([WCS0025](#)).

49 See for example Anonymous ([WCS0001](#)), UNISON ([WCS0005](#)), Trades Union Congress ([WCS0006](#)), Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), North Kensington Law Centre ([WCS0014](#)), Ravi Nayer ([WCS0016](#)), Duncan Lewis Solicitors ([WCS0020](#)), Jacqueline McKenzie ([WCS0033](#)).

50 [Q34](#).

51 The Voice, ‘[Preston campaigners to protest in London on Emancipation Day as they call on government for new Windrush Act](#)’, 30 July 2021; see also 38degrees.co.uk, ‘[Restorative Compensation Scheme for Windrush Scandal](#)’, (accessed 21 September 2021).

52 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021.

53 JUSTICE [Reforming the Windrush Compensation Scheme](#), 15 November 2021.

*of the same criticisms made of the Home Office by Wendy Williams in her report into how the Windrush scandal occurred. It is a damning indictment of the Home Office that the design and operation of this scheme contained the same bureaucratic insensitivities that led to the Windrush scandal in the first place, and suggests that the culture change promised in the wake of the scandal has not yet occurred. We are deeply concerned that delays and difficulties in the compensation scheme have compounded the injustices faced by members of the Windrush generation. As a result, we urge Wendy Williams to look at the compensation scheme as part of her review of the Home Office's progress on her recommendations.*



## 2 Reaching eligible applicants

They say that they are not going to be targeting anyone. That everyone is secure in everyone's statuses... But someone like my Mum, she's in the mindset of "why rock the boat when it's okay at the current moment. Why rock the boat and risk it for the opportunity to get some money." So ... that needs to be solved in some way to try and make it a safer environment for people to come forward.<sup>54</sup>

24. Over 13,800 people have been issued documentation or British citizenship since the Windrush scandal.<sup>55</sup> The Home Office's original planning assumption for the compensation scheme was that 15,000 people would be eligible to make a claim.<sup>56</sup> However, almost two and a half years after the launch of the scheme, at the end of September 2021, the Home Office had received just 3,022 claims, and only 864 people had been paid any compensation. The scheme was initially expected to close in April 2021 but was extended by two years to give people more time to make a claim.<sup>57</sup> On 21 July 2021, the Home Secretary announced the removal of the formal end date for the scheme, though "efforts do remain firmly fixed on receiving as many claims as possible by April 2023".<sup>58</sup>

25. In the first part of this chapter, we examine ongoing uncertainty over the number of eligible applicants and consider the causes of low engagement with the scheme. In the second part of this chapter, we examine how the Home Office has attempted to reach out to affected communities, the impact of covid-19 on its engagement activities and the extent to which the Department is reaching eligible people within non-Caribbean Commonwealth communities.

### An unknown number of eligible claimants

26. The Government told our predecessors in May 2018 that "Beyond individual cases which are drawn to our attention" it was "not possible to say how many of the Windrush generation may have been inadvertently affected by the compliant environment" because many immigration status checks are carried out by other agencies and bodies, such as by landlords and employers, rather than by the Government itself.<sup>59</sup>

27. Government assessments of the impact of the scheme emphasise the "considerable uncertainty"<sup>60</sup> around the number of people affected: claim volume scenarios range from 3,000 eligible claims (if volumes are consistent with the current rate of claims being submitted)<sup>61</sup> to 30,000 ("a high end estimate of eligible volumes"<sup>62</sup>).

54 Dominic Akers-Paul (WCS0025).

55 [Windrush Compensation Scheme factsheet – October 2021](#), (accessed 17 November 2021).

56 Home Office, '[Windrush Compensation Policy](#)', 9 January 2019, p2.

57 Gov.uk, '[Windrush Compensation Scheme extended by 2 years](#)', (accessed 21 June 2021).

58 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

59 [Letter from the Home Secretary to the Chair regarding Windrush children](#), 14 May 2018.

60 Home Office, '[Windrush Compensation Policy](#)', 9 January 2019, p2; Home Office, '[Windrush Compensation Policy](#)', 29 January 2020, p2.

61 Home Office, '[Windrush Compensation Policy](#)', 29 January 2020, p8.

62 Home Office, '[Windrush Compensation Policy](#)', 9 January 2019, p8.

28. In January 2019 the Home Office published estimated costs for the compensation scheme which were based primarily on a planning assumption of 15,000 eligible claimants.<sup>63</sup> A revised estimate published in February 2020 anticipated 11,500 eligible claims.<sup>64</sup>

29. In July 2021, the Home Office revised its planning assumption further; it now anticipates 4,000–6,000 eligible claims.<sup>65</sup> The Home Secretary wrote that intake to the scheme remained “considerably short” of the number of applications per month it would need to receive to reach its planning assumption of 11,500 claims and that the revised planning assumption “more accurately reflects the number of eligible claims we are likely to receive”.<sup>66</sup> The Home Office’s revised planning assumption draws upon “qualitative and quantitative information from the Windrush Scheme and the Windrush Compensation Scheme, but also using some judgement where information is limited”.<sup>67</sup> At the time of writing, the Department has yet to publish its revised impact assessment.

30. In December 2018 the NAO expressed surprise at the Home Office’s “lack of curiosity about individuals who may have been affected, and who are not of Caribbean heritage”<sup>68</sup> and challenged the Department’s decision not to review more of its own data proactively to identify people eligible for the Windrush Schemes.<sup>69</sup> The NAO noted that the Home Office had itself estimated in 2014 that 500,000 people might be in the UK lawfully who do not have a biometric residence permit to confirm their identity and right to work, study and access services in the UK.<sup>70</sup> Ms McKenzie told us there could be 50,000 eligible claimants.<sup>71</sup> She described the disparity between this number and the number of applications received across the Windrush schemes so far as “puzzling.” She also suggested that this could be an underestimate as there could additionally be “tens of thousands of people” outside the UK, “particularly in Africa and Asia, who have not yet been able to access” the Windrush schemes.<sup>72</sup>

**31. We are troubled that over four times as many people have had their status or citizenship confirmed under the Windrush Scheme as have applied for compensation, and we are concerned that the Home Office is lowering its estimates of the total number of potential claimants based on the low level of applications rather than the number of those actually eligible for the compensation scheme. We share the NAO’s concern about the Department’s lack of curiosity concerning non-Caribbean cases and its failure to identify individuals proactively who have been granted status but have not applied for compensation.**

**32. It reflects the deep and far-reaching problems with the compliant environment policy that, four years on from the emergence of the scandal, the Home Office still**

63 Home Office, [‘Windrush Compensation Policy’](#), 9 January 2019, p2.

64 Home Office, [‘Windrush Compensation Policy’](#), 29 January 2020, p2. The revised impact assessment published on 6 February 2020 draws upon an assumption that 75 per cent of non-EU nationals whose status or British citizenship has been confirmed by the Windrush Help Team (formerly known as the Windrush Taskforce) would make a successful compensation claim. Over 13,800 individuals have received confirmation of status or citizenship and, as at the end of June 2021, there were 501 people in the UK and 57 people overseas with an outstanding application.

65 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

66 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

67 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

68 National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018, para 23.

69 National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018, paras 2.10–2.13.

70 National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018, para 2.14.

71 [Q1](#).

72 Jacqueline McKenzie ([WCS0033](#)).

does not know how many people were affected and how many are eligible to apply to the Windrush Compensation Scheme. *The Home Office should provide more details of how it is identifying the assumptions underpinning its claim volume scenarios and how it is establishing its planning estimates in its response to this Report.*

### **A lower than expected number of compensation claims**

33. Submissions to our inquiry have suggested a variety of reasons as to why the number of applications to the scheme have been considerably lower than the Home Office’s initial estimate. Evidence from United Legal Access questioned whether raising awareness of the scheme was enough to encourage applications: “It’s one thing to direct people to the scheme but who will be assisting them?”.<sup>73</sup> Several submissions expressed concern that the complexity of the application process and the decision to appoint a claimant assistance service rather than provide legal assistance are a significant barrier to people in making their claim.<sup>74</sup>

34. In oral evidence Ms McKenzie told us “People cannot claim because the scheme is not designed to reflect this cohort of people”.<sup>75</sup> She said many claimants are only able to claim compensation for impact on life and that there is a lack of access to professional legal and medical support.<sup>76</sup> Ms Stow told us she had “seen some claimants who are eligible and would like to claim but simply do not want to because they know the scheme is not working, they know it is not fit for purpose, and it is just going to cause them more trauma ultimately”.<sup>77</sup> We examine issues relating to the application process and support for claimants further in chapter 4 and issues relating to the design and implementation of the scheme in chapter 5.

35. Many of the submissions we received questioned whether it was appropriate for the Home Office to deliver the compensation scheme given its role in causing the initial harm, and suggested that the scheme should be removed from the Department.<sup>78</sup> The Department has itself identified lack of trust as an issue for the scheme; when it asked its media partners to conduct a survey following a campaign, 12% of the 164 respondents believed the Windrush schemes were set up to “send people who are in the UK illegally back to their country of origin”.<sup>79</sup> In a survey of Windrush ambassadors,<sup>80</sup> 90% of respondents said news of deportation flights raised questions and concerns around trust in the schemes.<sup>81</sup> Dominic Akers-Paul, himself a claimant to the compensation scheme, told us his mother had not yet applied because she did not want to “rock the boat” and that more needs to be done to make people feel safe to come forward.<sup>82</sup> Martin Forde

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73 United Legal Access ([WCS0007](#)).

74 Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), Windrush Justice Clinic ([WCS0017](#)), Wilson Solicitors ([WCS0015](#)), Duncan Lewis ([WCS0020](#)), [Q32](#).

75 [Q1](#).

76 [Q1](#).

77 [Q1](#).

78 Anonymous ([WCS0001](#)), UNISON ([WCS0005](#)), Trades Union Congress ([WCS0006](#)), Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), North Kensington Law Centre ([WCS0014](#), [WCS0032](#)), Ravi Nayer ([WCS0016](#), [WCS0031](#)), Windrush Justice Clinic ([WCS0017](#)), Duncan Lewis ([WCS0020](#)), Mr Tobierre and Ms Tobierre ([WCS0022](#)), Windrush Lives ([WCS0023](#)).

79 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 2.7.

80 In August 2020 the Home Office recruited forty community ambassadors to encourage and support applications among their networks.

81 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 2.9.

82 Dominic Akers-Paul ([WCS0025](#)).

QC said he was concerned about the impact of “some very inaccurate publicity” around elements of the scheme when it first launched, such as how compensation for deportation was calculated, and told us that “it did not get off to the most favourable or, I thought, fair treatment”.<sup>83</sup> He added that “there are not many good news stories out there” and told us that people may be put off applying after hearing about “where cases have gone wrong”.<sup>84</sup>

36. Whilst the Home Office publishes monthly data on the Windrush Compensation Scheme, the only information it provides on payments is the total amount of compensation paid and the number of claims this relates to. Mr Forde told us that the Home Office includes interim awards as well as final awards in this payment data, which means that it is “difficult” to calculate the average value of awards by dividing the amount of compensation paid by the number of claims. He said he would like to see information on payments presented in bands indicating their value.<sup>85</sup> In Windrush Compensation Scheme factsheets published in September and October 2021, the Home Office provided a breakdown by banded value of full and final offers and payments.<sup>86</sup>

**37. It is clear from the low level of claims submitted to the compensation scheme to date, and from evidence we have received, that there is considerable work to be done in order to rebuild trust and confidence in the Home Office to deliver the Windrush Compensation Scheme, and to demonstrate to people both that it is safe to seek confirmation of their lawful status and that it is worthwhile to make a claim for compensation.**

**38. It would have been far better for establishing trust if the compensation scheme had been administered independently from the Home Office from the start, as many Windrush campaigners have called for. By keeping the compensation scheme within the very Department that caused the Windrush scandal, the Government has undermined confidence in the scheme and also made it vulnerable to some of the same problems that characterised the Home Office approach to the Windrush generation in the first place. *In order to increase trust and encourage more applicants, we believe that the scheme should be transferred to an independent organisation.*** In the course of this Report, we make further recommendations about how the scheme should be improved, whether by the independent organisation or the Home Office.

39. It is notable that applications have begun to increase towards the level of applications received during the first quarter of the scheme since changes to the scheme in December 2020 significantly increased the amount of compensation available for impact on life and made further changes to how compensation is calculated for loss of access to employment.<sup>87</sup>

40. In July 2021 the Home Secretary wrote that understanding why people who may be eligible for compensation are not applying to the scheme is “a particular area of focus for the department”.<sup>88</sup> She wrote that “Having spoken to individuals via the Help Team and at outreach and engagement events, we know that for many, the impact of the

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83 [Q41](#).

84 [Q41](#).

85 [Q60](#)

86 Gov.uk, ‘[FACTSHEET: Windrush Compensation Scheme - July 2021](#)’, (accessed 21 September 2021); Gov.uk, ‘[Windrush Compensation Scheme factsheet - October 2021](#)’, (accessed 29 October 2021).

87 Home Office, ‘[Windrush Compensation Scheme data: September 2021](#)’, 22 September 2021, WCS\_05.

88 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

Windrush scandal has fundamentally been about status and belonging, rather than about compensation and money”.<sup>89</sup> However, the Department has also identified ways it could better target its messaging about the scheme:

- More translated communications into key priority languages,
- Making the claim forms more accessible,
- Better promotion of the free services provided by We Are Digital.<sup>90</sup>

The Home Office is developing a video for Gov.uk with translation into key languages and strengthening the next phase of communications activity”.<sup>91</sup>

**41. The changes to the Windrush Compensation Scheme which were announced in December 2020 were long overdue and the increase in applications since then is to be welcomed. The Department’s work to understand better why eligible people have yet to apply for compensation is also to be welcomed. However, that application volumes are still much lower than expected points to deep and persistent problems. The evidence provided to us makes it plain that the delays and difficulties in applying for the scheme, together with a deep mistrust of the Home Office, form a toxic combination which may be putting off those who were caught up in the Windrush scandal from applying, for fear of being re-traumatised by the process. The Home Office’s finding that, for some individuals, the impact of the Windrush scandal was primarily about status and belonging does not absolve it of its responsibility to do all that it can to provide compensation to those eligible and entitled to receive it. The onus is on the Home Office to rebuild trust with the Windrush community and to make applying for compensation as easy a process for the claimants as it possibly can be. So far, that has patently not been the case.**

*42. Given the continued uncertainty around the number of eligible claimants and the fact that some eligible claimants currently lack the confidence, patience or trust in the Home Office to apply for a scheme administered by the Department, we strongly welcome the removal of the formal end date for the scheme. However, we implore the Home Office to be even more proactive in rebuilding trust with members of the Windrush community.*

**43. We hope that the changes since December 2020 that have increased the level of award available and made the process simpler will also help encourage more people to apply for the scheme. The Home Office could improve trust and confidence amongst claimants by being more transparent about the value of awards it is making. Greater openness about the value of compensation payments may also help to assure eligible people who are yet to apply for compensation that making a claim is worthwhile. We welcome the recent publication of data on full and final offers. The Home Office should publish this data at least every six months; it should also publish data on the number of full and final impact on life payments made at each level of award.**

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89 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

90 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

91 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.



### *Proactively identifying those affected*

44. In response to questions from Parliament when the Windrush scandal emerged, a Historical Cases Review Unit was established to identify individuals who may have been wrongly detained or removed and to make referrals to the then Windrush Taskforce (now the Windrush Help Team) so that they could be traced and referred to the Windrush Scheme. The review examined the cases of 11,800 individuals of Caribbean Commonwealth nationality born before 1 January 1973 who had been removed and / or detained since 2002. It sought to identify individuals where records indicated that they could have been in the UK before 1973, and that they may therefore have the right of abode in the UK.<sup>92</sup> An additional 322 cases of individuals who had been detained and / or deported following a criminal conviction in the UK were reviewed separately,<sup>93</sup> and the Home Office also examined 1,977 cases where an individual's data had been proactively shared with other Government departments with the intention of initiating a sanction or the denial of services.<sup>94</sup>

45. Our predecessor Committee received regular updates on the historical cases review. The update we received on 28 April 2020 indicated that:

- The review of the 11,800 cases identified 164 individuals whose details were passed on to the then Taskforce, and 142 of these individuals have been traced.
- The review of the 322 cases identified 10 individuals whose details were passed on to the then Taskforce, and 6 individuals have been traced.
- The review of the 1,977 cases identified 55 individuals whose details were passed on to the then Taskforce, and 52 of these individuals have been traced.<sup>95</sup>

46. Our predecessor Committee, the NAO, the Public Accounts Committee and Wendy Williams have each recommended that the Home Office expand the work of its historical cases review,<sup>96</sup> which focused on individuals from 12 Caribbean countries,<sup>97</sup> proactively to identify and trace more people affected. Although the Department holds records of around 171,000 cases of Commonwealth nationals born before 1973 who may have been detained or removed since 2002, it has decided not to review around 160,000 files relating to non-Caribbean Commonwealth nationals because it “would involve disproportionate effort”.<sup>98</sup> The Government said extending the review to other nationalities would bring approximately 300,000 cases within scope, and that this would take a “substantial number of caseworkers around two years to review at a significant cost”.<sup>99</sup>

92 The right of abode in the UK is the right to live and work in the UK without any restrictions. [Letter from the Home Secretary regarding Windrush: July update](#), 21 August 2018.

93 [Letter from the Home Secretary regarding Windrush: April update](#), 10 June 2019.

94 [Letter from the Home Secretary regarding Windrush: April update](#), 10 June 2019.

95 [Letter from the Home Secretary on Windrush update](#), 28 April 2020.

96 Home Affairs Committee, Sixth Report of Session 2017–19, [The Windrush generation](#), HC 990, 3 July 2018, para 18; National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018, para 25a; Public Accounts Committee, Eighty-Second Report of Session 2017–19, [Windrush generation and the Home Office](#), HC 1518, 6 March 2019, para 5; Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p15, Recommendation 5.

97 National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018, para 2.10.

98 National Audit Office, [Handling of the Windrush situation](#), HC 1622, 5 December 2018 para 2.11.

99 HM Treasury, Treasury Minutes, [Government response to the Committee of Public Accounts on the Eighty-Second and the Eighty-Sixth to the Ninety-Second reports from Session 2017–19](#), CP 113, June 2019, para 5.4.

47. Responding to Williams’ recommendation on the historical cases review, the Home Office pointed to limitations on the information held on its systems, including a lack of data on individuals affected by compliant environment sanctions such as “right to work” and “right to rent”: it stated that “The work of the historical cases review, as it was originally intended, is complete”.<sup>100</sup>

48. Although the Department’s revised planning assumption of 11,500 compensation claims which it published in February 2020<sup>101</sup> drew upon assumptions about the number of individuals whose status or citizenship has been and is yet to be confirmed by the Windrush Help Team, the extent to which this team is proactively referring individuals to the compensation scheme, including those whose status was resolved prior to the compensation scheme becoming operational, is unclear. Ms Ankrah told us that she believed the Home Office should “make more of an effort to contact the 12,000 people whose immigration status has been resolved” and should also provide support for “close family members” of these individuals, who might have a linked case. She reported that “The Home Office did email some of those who had been helped by the Windrush [Help Team], but there was a lack of consistent join-up”.<sup>102</sup>

49. **As previously stated, whilst we recognise the challenges faced by the Home Office in both estimating the number of, and identifying, people who may be eligible for the Windrush Compensation Scheme, we agree with the NAO, the Public Accounts Committee and Wendy Williams that more could be done proactively to identify affected individuals and support them in accessing the assistance available through the Windrush schemes.**

50. **All those who received help from the Windrush Scheme to get their papers and documentation resolved should have been contacted and offered help with applying for the Windrush Compensation Scheme. The Home Office should clarify how many of those 13,800 people were proactively contacted and offered support to apply for compensation as well. It should contact them again to ensure they have full information about the changes to the compensation scheme and the help available to apply.**

51. **The Home Office should also explain clearly how it has considered and is seeking to mitigate any risks it identified when making the decision not to broaden the scope of its historical cases review, including but not limited to the risk of failing to identify non-Caribbean Commonwealth nationals who may have been wrongly detained and/or removed, or whose data may have been proactively shared with other government departments. The Home Office has stated that widening the scope of the historical cases review would take a ‘substantial number of caseworkers around two years to review at a significant cost’. Without being provided a precise estimate of what that cost would be, we cannot accept that as a reasonable justification for not widening the scope of the review as suggested by the Public Accounts Committee and by Wendy Williams in her Lessons Learned Review. The Home Office must share its estimate of the cost and caseworkers required.**

100 HM Government, [The Response to the Windrush Lessons Learned Review: A comprehensive Improvement Plan](#), CP 293, September 2020, para 51.

101 Home Office, [‘Windrush Compensation Policy’](#), 29 January 2020, p9. In July 2021, the Home Secretary announced that the Department’s planning assumption had been revised further to 4,000–6,000 claims.

102 Alexandra Ankrah ([WCS0027](#)).

## Engagement and outreach activity

52. Since 2019 the Home Office has established two groups with a stated role in developing its engagement and outreach strategy on the Windrush Compensation Scheme. In September 2019 the Home Secretary launched the Windrush Advisory Group, comprising of community and faith leaders, “to encourage people to apply to the Windrush Compensation Scheme”.<sup>103</sup> On 19 March 2020 the Home Secretary also announced the establishment of the Windrush Cross-Government Working Group, “with the longer-term aim of addressing wider racial inequalities and with more focus on restorative justice practices”.<sup>104</sup> This group “brings together community organisations with government representatives” and part of its purpose is to improve uptake of the Windrush Schemes.<sup>105</sup> Whilst minutes of Windrush Cross-Government Working Group meetings have been published,<sup>106</sup> minutes of Windrush Advisory Group meetings have not.

53. The Home Office has spent £773,000 on engagement and outreach activity for the Windrush schemes and this activity is set out in Figure 7 of the NAO’s report.<sup>107</sup> In April 2018, the Department held 80 one-to-one outreach surgeries. Since April 2019, approximately 3,000 people have attended 140 engagement events. As a result of the pandemic, these events have been held online since May 2020. Between August 2020 and October 2020, the Home Office spent £318,000 on a media campaign including radio, press, digital and search advertising; it also spent £177,500 on strategy and material development. From August 2020 to January 2021, it spent £209,100 on a grassroots campaign which utilised specialist community media partners, community ambassadors and partnerships to disseminate information about the scheme. In July 2021 the Home Secretary wrote to us that, whilst the formal end date of the scheme has been removed, the Department expects that its communications and outreach activities will end in April 2023.<sup>108</sup>

103 Gov.uk, ‘[Home Secretary launched Windrush Advisory Group](#)’, (accessed 21 June 2021).

104 Gov.uk, ‘[Windrush factsheet: May 2020](#)’, (accessed 21 June 2021).

105 Gov.uk, ‘[Windrush Cross-Government Working Group](#)’, (accessed 18 June 2021).

106 Gov.uk, ‘[Windrush Cross-Government Working Group: minutes of meetings](#)’, (accessed 18 June 2021).

107 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 7.

108 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.



**Figure 1: The Home Office's engagement and outreach activity for the Windrush scheme and Windrush Compensation Scheme<sup>109</sup>**

Activity	Dates used	Cost	Description and evaluation
One-to-one outreach surgeries	April 2018	-1	80 one-to-one surgeries. No evaluation available.
Face-to-face engagement events	April 2019 to February 2020 <sup>2</sup>	£13,500	140 engagement events with nearly 3,000 attendees.
Digital engagement events	May 2020 to present	-1	Feedback from attendees is limited, but of those that responded, 80% said the events were very or somewhat useful.
<b>Grassroots campaign</b>	<b>August 2020 to January 2021</b>	<b>£209,100</b>	
Specialist community media partner campaign	August 2020 to November 2020	£93,300	Approximately 1,500 media coverage estimated to reach 3.1 million people. <sup>3</sup> 86% of respondents to a survey said they would apply for schemes if they felt they were affected. Of those that said they would not apply, they gave reasons including lack of trust in the Department, people rarely being compensated, belief they would not qualify, or concerns that information is biased.
Community ambassadors	September 2020 to January 2021	£82,800	Of sampled respondents, 72% felt more informed having engaged with an ambassador; and 40% were more likely to contact the Windrush schemes, but many communities still fear and mistrust the Department, which ultimately affected outreach activity.
In-kind partnerships	September 2020 to November 2020	£11,200	Survey of partners showed participants felt the information was relevant to the communities they served, but none of the partners received queries after sharing campaign materials and information with their networks.
Account management	August 2020 to January 2021	£21,800	Not applicable.
<b>Marketing</b>	<b>August 2020 to October 2020</b>	<b>£495,500</b>	
Paid-for media campaign, including radio, press, digital and search advertising	August 2020 to October 2020	£318,000	Estimated reach of 12 million people, including 25% of priority communities. A survey showed a 14 percentage points increase (from 67% to 81%) in awareness of government support among priority audiences following the campaign.
Strategy and material development	August 2020 to October 2020	£177,500	Not applicable.
<b>Evaluation and testing</b>	<b>Ongoing</b>	<b>£54,800</b>	

**Notes**

- 1 The Department advised the National Audit Office it did not have any costs incurred from its outreach surgeries and digital events.
- 2 The Department stopped holding face-to-face events at the start of the COVID-19 pandemic. It moved to digital engagement events in May 2020.
- 3 The Department uses the term 'coverage' to mean online and print advertorials, radio and TV interviews, radio recording spots, TV advert spots, engagement events and social posts.
- 4 Totals may not sum due to rounding.

Source: National Audit Office analysis of Home Office financial data

54. In this section we first consider the effectiveness of the Department’s outreach and engagement activities on raising awareness of the scheme. We then consider the impact of covid-19 on its events programme. We have also considered the extent to which the Home Office is raising awareness amongst non-Caribbean Commonwealth communities.

55. The Home Office conducted a national media campaign between August and October 2020, including radio, press, digital and search advertising, and the Department estimates that this reached an estimated 12 million people including 25% of priority communities.<sup>110</sup> Evidence we received in December 2020 indicates that this campaign did not reach all those to whom it was targeted. Anthony Williams said he thought awareness of the scheme could be improved through the use of local radio<sup>111</sup> and United Legal Access wrote “they have barely advertised the Scheme”.<sup>112</sup> Mr Williams said he thought television adverts should be introduced, and Mr Forde also told us he “would have liked a public service broadcast”.<sup>113</sup>

56. As we were finalising our report in November 2021 the JUSTICE working group on the Windrush Compensation Scheme published its own report, recommending that substantial changes are needed. These recommendations included: making information for claimants available “in the form of video guides on the Scheme and the application process”;<sup>114</sup> providing regular updates to claimants every six weeks;<sup>115</sup> ensuring that letters to claimants “are clear and written in plain English”;<sup>116</sup> providing further training and clearer guidance to caseworkers;<sup>117</sup> and, that the Home Office should ensure “all Claimants are treated with humanity, care, dignity and respect”.<sup>118</sup>

### *The impact of covid-19 on engagement events*

57. The NAO found that, whilst feedback from attendees of Home Office engagement events is limited, 80% of those who did respond said the events were very or somewhat useful.<sup>119</sup> Some of the evidence we received echoes the NAO’s finding that the engagement events are useful for eligible claimants,<sup>120</sup> with the North Kensington Law Centre describing them as “a good chance for people to attend, find out information and also for the Home Office to engage with those affected”.<sup>121</sup>

58. The Home Office has previously found that face-to-face engagement is the preferred way to engage with affected communities on this issue.<sup>122</sup> Several submissions we received expressed concerns about the accessibility of the online engagement events (introduced as a result of the pandemic) to the elderly and to those with limited digital skills or access to technology.<sup>123</sup> It is difficult to assess the impact of the shift to digital events on different age

110 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 7.

111 Mr Williams ([WCS0021](#)).

112 United Legal Access ([WCS0007](#)).

113 [Q49](#).

114 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, para 4.25.

115 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, para 5.13

116 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, para 5.14.

117 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, para 4.21.

118 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, para 5.3.

119 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 7.

120 Huggell Solicitors ([WCS0012](#)), Garden Court Chambers ([WCS0019](#)), Windrush Lives ([WCS0023](#)).

121 North Kensington Law Centre ([WCS0014](#)).

122 PQ 7259, [[on: Windrush Generation: Compensation](#)], 28 January 2020.

123 Anonymous ([WCS0004](#)), Gertrude Ngozi Chinegwundoh ([WCS0008](#)), Garden Court Chambers ([WCS0019](#)), Mr Williams ([WCS0021](#)), Windrush Lives ([WCS0023](#)).

groups' awareness of the scheme because, whilst the Home Office does gather feedback on the quality of its events, it does not currently collect information about how people heard about the scheme when they apply.<sup>124</sup>

**59. We share claimants' and their representatives' concerns that digital engagement events and advertising may be less effective in reaching this cohort. As restrictions are lifted, planning and preparations must commence to ensure that the Department is ready to launch a new and extensive programme of face-to-face engagement events as soon as it is safe to do so.**

### **Grassroots campaign**

60. Witnesses suggested to us that outreach should be carried out through trusted community organisations.<sup>125</sup> Ms McKenzie said that the compensation scheme “almost needs the approach that the census takes to try to reach hard to-reach people, as they are described, getting out there into the community and speaking to people and allaying their fears”.<sup>126</sup>

61. The Home Office has recognised the need to build trust in communities, although there appears to have been some delay with launching the community-led aspects of its outreach and engagement programme. When it launched the Windrush Advisory Group in September 2019, the Home Office said “The group will aim to build trust with the affected communities so that people of all nationalities come forward to claim compensation. It will also play a vital role in advising and shaping the Home Office’s ongoing outreach and engagement strategy on the Windrush Compensation Scheme”.<sup>127</sup> However, the Department’s grassroots campaign did not launch until August 2020 and it did not recruit its forty Windrush ambassadors until the following month.

62. The JUSTICE working group on the Windrush Compensation Scheme reported in November 2021 that the Windrush Advisory Group has been disbanded. It found that, whilst the Home Office demonstrated a willingness to listen to the Advisory Group’s suggestions, it did not provide feedback to the Advisory Group on how its suggestions were to be implemented.<sup>128</sup>

63. The effectiveness of the grassroots campaign has been questioned. Ms McKenzie described the recruitment of community ambassadors as “a futile operation”, partly because covid-19 restrictions limited activity, but also because there were no budgets attached to this work to hold events or other activities. She wrote that “The Home Office repeatedly try to address [outreach and engagement] on the cheap and without any adequate thought processes”.<sup>129</sup>

64. Furthermore, the Home Office’s evaluation of this grassroots campaign as reported by the NAO indicates that, whilst there was some success in informing and engaging with people about the scheme, fear and mistrust in the Department “ultimately affected

124 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 2.3.

125 Gertrude Ngozi Chinegwundoh ([WCS0008](#)), Windrush Action ([WCS0009](#)), North Kensington Law Centre ([WCS0032](#)).

126 [Q12](#).

127 Gov.uk, ‘[Home Secretary launches Windrush Advisory Group](#)’, [accessed 18 June 2021].

128 JUSTICE, [Reforming the Windrush Compensation Scheme](#), 15 November 2021, pp 58–60.

129 Jacqueline McKenzie ([WCS0033](#)).

outreach activity”.<sup>130</sup> Addressing the issue of fear amongst the community in his oral evidence, Mr Forde told us that the inability of immigration enforcement to access information provided in applications to the Windrush schemes “needs to be broadcast very loud and very clear”.<sup>131</sup>

### *Operation of the Community Fund*

65. On 19 March 2020 the Home Secretary announced that a £500,000 community fund was to be opened for grassroots organisations to promote and share information about the Windrush schemes.<sup>132</sup> In June 2020, the Government said that this fund would “shortly launch”.<sup>133</sup> Progress then appeared to stall: applications for Phase 1 of the fund did not open until 14 December 2020.<sup>134</sup> The Home Office worked with a sub-group of the Windrush Cross-Government Working Group to design the fund, and the Working Group is involved in the consideration of applications.<sup>135</sup>

66. Outcomes of Phase 1 of the Windrush Community Fund were published on 29 April 2021.<sup>136</sup> Grants between £5,000 to £25,000 were awarded to fourteen organisations<sup>137</sup> and projects will include activities such as promotional events, workshops and presentations, advertisements on social media and printed materials, and engagement with church and community groups.<sup>138</sup> Funding applications for Phase 2 opened on 1 April and closed 30 June.<sup>139</sup>

67. Garden Court Chambers questioned whether the £500,000 currently allocated to the Fund will be adequate.<sup>140</sup> Ms McKenzie compared the provision of the Windrush Community Fund with the £9m in grants made available to voluntary and community organisations to support people with their applications to the EU Settlement Scheme and found a disproportionate lack of support for Windrush which she thought “telling”.<sup>141</sup> She further wrote that the Windrush Community Fund does not support advice and advocacy work, and said the Home Office has not done enough to support “the groups and organisations best placed and currently doing the work”.<sup>142</sup>

**68. We believe that a community-centred strategy is vital for building trust in the compensation scheme given the pervasive distrust of the Home Office within the affected communities. The Home Office should look at more innovative ways of reaching communities, for instance video guides. Whilst the Home Office’s grassroots campaign and the launch of the Windrush Community Fund are welcome, it is unacceptable that they took so long to get off the ground and didn’t even start providing funds for community projects until two years after the compensation scheme opened. As a result of those unexplained delays, nearly four years on from the Windrush scandal many**

130 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 7.

131 [Q49](#).

132 HC Deb, 19 March 2020, [col 1156](#) [Commons Chamber].

133 Gov.uk, [‘Over £1million offered in compensation to the Windrush generation’](#), (accessed 18 June 2021).

134 Gov.uk, [‘Windrush Compensation Scheme factsheet: December 2020’](#), (accessed 18 June 2021).

135 Gov.uk, [‘Apply for the Windrush Community Fund’](#), (accessed 18 June 2021).

136 Gov.uk [‘Windrush Community Fund Phase 1: projects’](#), (accessed 18 June 2021).

137 Gov.uk [‘Windrush Community Fund Phase 1: projects’](#), (accessed 18 June 2021).

138 Gov.uk [‘Windrush Community Fund Phase 1: projects’](#), (accessed 18 June 2021).

139 Gov.uk, [‘Apply for the Windrush Community Fund’](#), (accessed 18 June 2021).

140 Garden Court Chambers ([WCS0019](#)).

141 Jacqueline McKenzie ([WCS0033](#)).

142 Jacqueline McKenzie ([WCS0033](#)).

people are still too fearful of the Home Office to apply for the Windrush schemes and have yet to be reassured that engaging with the Department on compensation will not leave them vulnerable to Immigration Enforcement. Rebuilding trust through community and grassroots networks should have been an urgent priority once the scheme had launched; instead, the delays that have become characteristic of the Home Office's work on Windrush have significantly stalled progress on outreach too. *The Home Office should bolster the support and funding available to grassroots campaigns and community groups tasked with raising awareness of the Windrush schemes, ensuring that those in which the community has confidence and which have expertise in this work are adequately supported. It should look to scale up its grassroots outreach work in the coming years, instead of ending the active phase of its communications and outreach programme in 2023.*

69. *When individuals apply for the Windrush Compensation Scheme, the Department should collect data on how they heard about it. This would allow for proper evaluation of their outreach work and help decide where more resources should be targeted.*

### **Reaching all affected communities**

70. There are concerns about the extent to which the Home Office is engaging with non-Caribbean Commonwealth nationals and communities, including individuals overseas who may be eligible for the Windrush schemes.<sup>143</sup> The Home Office is aware of this: more than half of the 164 respondents to a survey carried out through its media partners thought the schemes are only available to people from Caribbean countries.<sup>144</sup> Grace Nwobodo, who was wrongly excluded from the UK in 1985, told us she was only able to return from Nigeria and reunite with her family because her cousin made her aware of the Windrush scandal.<sup>145</sup> Ms McKenzie suggested that the Home Office should run a campaign on the Windrush schemes in relevant countries in Africa, Asia and the Caribbean as well as in the UK.<sup>146</sup>

71. In a joint letter to us and to the Public Accounts Committee in October 2020, the Permanent Secretary said “We are working with priority British High Commissions overseas to support them to raise awareness and signpost the help available for affected individuals”.<sup>147</sup> In subsequent correspondence<sup>148</sup> the Government clarified that the ‘priority Commissions’ were located “across the Commonwealth”: it pointed to a meeting in the UK attended by the Home Office Minister for Future Borders and Immigration and Caribbean High Commissioners as an example of engagement between the FCDO and the Home Office on the implementation of the Windrush Lessons Learned Review and the Windrush schemes.<sup>149</sup> In July 2021, the Home Secretary wrote to us that the Department has “reached out to High Commissioners from South Asian countries, Nigeria and Ghana, to ensure we are reaching those who are overseas”.<sup>150</sup>

143 Gertrude Ngozi Chinegwundoh (WCS0008), Grace Nwobodo (WCS0025), Alexandra Ankrah (WCS0027).

144 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 2.7.

145 Grace Nwobodo (WCS0025).

146 Jacqueline McKenzie (WCS0033).

147 [Correspondence from the Home Office on the Windrush Compensation Scheme](#), 20 October 2020.

148 [Correspondence from Sir Philip Barton, Permanent Under-Secretary of State, Foreign, Commonwealth & Development Office, re Windrush Compensation Scheme](#), 17 December 2020.

149 [Correspondence from Sir Philip Barton, Permanent Under-Secretary of State, Foreign, Commonwealth & Development Office, re Windrush Compensation Scheme](#), 17 December 2020.

150 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

72. In oral evidence, we heard that “One of the unfortunate things about Windrush is the name because [ ... ] a lot of people in other communities, predominantly the black Commonwealth, don’t think this applies to them”,<sup>151</sup> and that “The Home Office needs to do a more serious job about outreach into all communities because we know it is not just the Caribbean community affected”.<sup>152</sup> Bishop Derek Webley, Co-Chair of the Windrush Cross-Government Working Group said the Group would “like to do more to ensure that proactive support extends to Windrushians of Indian, Pakistani, Bangladeshi, Nigerian and Ghanaian heritage, who thus far have been underrepresented as prospective claimants and prospective voices to be heard”.<sup>153</sup> many of the projects awarded funding in Phase 1 of the Windrush Community Fund aim to raise awareness across all affected communities.<sup>154</sup> However, as stated earlier in this report,<sup>155</sup> there are concerns about the Home Office’s decision not to extend the work of its historical cases review to identify proactively non-Caribbean nationals who may be eligible for the schemes.

***73. The Home Office must ensure that all communications about the Windrush schemes make clear that eligibility is not limited to the Caribbean Commonwealth, and that there is dedicated outreach and targeted communications for those from non-Caribbean Commonwealth countries. It should evaluate the community projects it is now funding in order to learn how best to ensure that its own outreach efforts are effective in reaching and engaging with all affected communities. The Government should also clarify how British High Commissions overseas are being supported to raise awareness of the Windrush schemes.***

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151 [Q34](#) (Martin Forde QC).

152 [Q12](#) (Jacqueline McKenzie).

153 Bishop Derek Webley, Co-Chair, Windrush Cross-Government Working Group ([WCS0028](#)).

154 Gov.uk ‘[Windrush Community Fund Phase 1: projects](#)’, (accessed 18 June 2021).

155 See paragraph 46.



### 3 Delays

Two years later, we're still claiming. That's no justice.<sup>156</sup>

74. The Home Office has been criticised repeatedly for not processing applications quickly enough,<sup>157</sup> with only thirty-six people receiving a payment during the first nine months of the scheme (the Home Office received 1,109 applications during this period).<sup>158</sup> Windrush Lives told us that many claimants were “heavily in arrears and continue[d] to incur debts whilst waiting” for the outcome of their applications.<sup>159</sup> Delays in processing applications are also a particular concern due to the typical age of those affected. Sadly, 23 people are known to have died before their compensation claim was decided.<sup>160</sup>

#### How long does it take to receive compensation?

75. In response to a written parliamentary question the Home Office stated that, of the 1,417 cases being worked through as of 21 April 2021:

- 281 have been in the process for 12–18 months;
- 214 have been in the process for over 18 months;
- 5 have been in the process for over 24 months.<sup>161</sup>

76. The Home Office does not routinely publish data on how long it takes for claims to reach payment stage; however, the NAO analysed data for applications received since the Home Office’s new caseworking system became operational in March 2020 (1,033 applications, 48% of total applications). Having excluded cases submitted under the old caseworking system it found that:

In [one year]102 cases (10%) reached payment approval stage.<sup>162</sup> It took these cases an average 177 days to reach payment approval. Half of the cases took between 109 and 250 days. [ ... ] Analysis of the process shows that on average applications go through 15 steps before offering a payment to claimants.<sup>163</sup>

77. Once claims move into caseworking, they are usually considered in the order in which they were received. In revised caseworker guidance published in October 2021, the Home Office set out that, where a claimant has an illness which means there is a “substantial risk [that] they will not receive the outcome of their claim if it is considered in date order”, it may be appropriate to consider the claim out of date order. Caseworkers are advised that references to hardship or vulnerabilities will not usually be a reason to begin consideration of a claim out of date order and are advised to assess instead whether a referral to the

156 Christian Hayibor ([WCS0025](#)).

157 See for example The Guardian, [‘Only 3% of Windrush claimants have so far received compensation’](#), 6 February 2020; Financial Times, [‘Windrush compensation scheme ‘too slow’ for victims’](#), 18 July 2020; BBC News [‘Windrush victims still waiting for compensation - watchdog’](#), 21 May 2021.

158 Home Office, [‘Windrush Compensation Scheme data: June 2021’](#), 24 June 2021.

159 Windrush Lives ([WCS0023](#)).

160 [Q300](#), (Matthew Rycroft CBE).

161 PQ 183168 [[on Windrush Generation: Compensation](#)], 29 April 2021.

162 The Department began to use the new system formally in March 2020. Data from before March 2020 are not available for inclusion in this analysis.

163 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.9.

Vulnerable Persons Team or an Urgent and Exceptional Payment is appropriate.<sup>164</sup> We consider the operation of the Urgent and Exceptional Payment Scheme and the work of the Vulnerable Persons Team further in chapter six.

## Timescales

78. The Home Secretary has refused to introduce targets on processing claims “as we want caseworkers to work with the applicant to ensure that sufficient evidence is provided to maximise the potential offer”<sup>165</sup> but some witnesses said the lack of even estimated timescales is difficult for claimants.<sup>166</sup> As at 31 January 2021, the average number of calendar days from a claim being received by the Home Office to the date of full and final payment was 434.<sup>167</sup>

79. Mr Forde told us the terms of the criminal injuries compensation scheme, which has operated for several decades, state that claims will take twelve to eighteen months to process.<sup>168</sup> Of the Windrush Compensation Scheme, he said “I do not think expectations were properly managed. I understand there was political pressure to get something out of the door quickly and announce it, but expectations should have been managed around the inevitable delay. Some of these claims involve people who lost homes having lost jobs, lost equity but would have been paying a mortgage. These are complex even for a compensation lawyer”.<sup>169</sup>

80. Although target times for decision-making have not been introduced, the Department has set internal targets to improve case progression.<sup>170</sup> In October 2020, it set itself three milestones:

- to make a final decision on all cases submitted before June 2019 by the end of 2020;
- to reduce the number of cases awaiting a final decision to 500 by mid-July 2021; and
- to make a final decision on all cases submitted to the end of 2020 by the end of August 2021.<sup>171</sup>

81. As a result of needing to apply the changes that were made in December retrospectively to all cases, and because the Department received a higher number of applications in the first quarter of 2021, in March 2021 the Home Office reduced the number and ambition of its planned milestones:

- to conclude 90% of cases submitted before the end of 2020 by the end of August 2021; and

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164 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, pp37–38.

165 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

166 See for example Gertrude Ngozi Chinegwundoh (WCS0008), Leigh Day (WCS0013).

167 PQ 179171 [[on Windrush Generation: Compensation](#)], 15 April 2021.

168 [Q66](#).

169 [Q66](#).

170 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.12.

171 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.12.



- to hold only six months of cases awaiting a decision by the end of November 2021.<sup>172</sup>

## Was the Home Office ready to accept applications?

82. On 3 April 2019, the then Home Secretary Rt Hon Sajid Javid MP said in the House of Commons that “We [ ... ] wanted to ensure that systems were in place from day one when the compensation scheme went live. Now that it is live, we will be able to process claims quickly”.<sup>173</sup> However, the NAO found that whilst the Home Office initially estimated it would need 200 full-time equivalent caseworkers (subsequently reduced to 125 because it thought it would not have time to train 200), just six full-time equivalent caseworkers were in post when the scheme launched.<sup>174</sup>

83. The NAO also found that the initial IT system for the scheme, a modified version of an existing correspondence system, “had limited workflow functionality and so the Department used manual spreadsheets alongside it to monitor the progress of claims and generate management information.” In November 2019, the Department commissioned a new caseworking system, which became operational in March 2020; the NAO reported in May that it was then being updated to reflect the changes that were made to the scheme in December 2020.<sup>175</sup>

84. Several of the individuals who submitted evidence to our inquiry were early applicants to the scheme. The Department acknowledged in its written evidence that “Half of the claims received to date [December 2020] were received in the first 6 months of the scheme being launched, and prior to the compensation team being fully resourced and operational”.<sup>176</sup> Evidence we received includes instances of people being asked to resubmit their application or evidence after being told it had been lost or had not been received,<sup>177</sup> and several individuals or their representatives expressed their frustration at not being able to receive meaningful updates on the status of their application and the progress being made on their claim.<sup>178</sup>

85. The Home Office has asserted repeatedly that one of the reasons claims take a long time to process is because they are complex.<sup>179</sup> The NAO found that the Department had underestimated this complexity.<sup>180</sup> It estimated that it would take, on average, 30 staff hours to process a case; however, up to 31 March 2021, it has taken an average of 154 staff hours for cases to reach payment approval and this does not include time where a case is not actively being worked on.<sup>181</sup> The NAO’s analysis of applications submitted since March 2020 also found that cases were not always making linear progress through the scheme system. For example, there were 2,267 instances in which cases moved backwards

172 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.13.

173 HC Deb, 3 April 2019, [col 1050](#) [Commons Chamber].

174 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.3.

175 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.6.

176 Home Office ([WCS0018](#)).

177 Mr Tobierre and Ms Tobierre ([WCS0022](#)), Christian Hayibor and Carl Nwazota ([WCS0025](#)).

178 Anonymous ([WCS0004](#)), United Legal Access ([WCS0007](#)), Leigh Day ([WCS0013](#)), Wilson Solicitors LLP ([WCS0015](#)), North Kensington Law Centre ([WCS0014](#)), Duncan Lewis ([WCS0020](#)), Dominic Akers-Paul et al ([WCS0025](#)).

179 See for example HC Deb, 23 June 2020, [col 1197](#) [Commons Chamber]; [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021; PQ 183169 [on [Windrush Generation: Compensation](#)], 29 April 2021.

180 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.6.

181 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.4.

from the casework stage to triage, 406 instances in which casework was placed on hold<sup>182</sup> and “of the cases that were subject to a quality assurance check, half needed to return to a caseworker for further work, indicating cases often contained errors”.<sup>183</sup>

## Monitoring and improving performance

86. In oral evidence in July 2020 the Home Secretary and the then Second Permanent Secretary told us they were monitoring the resource and staffing needs of the compensation team, but the NAO’s findings show the Department has not always sufficiently understood or recorded its needs.<sup>184</sup> The Home Secretary told us in July 2020 that “my focus has been very much on saying to the Department, “You tell me what you need and we will absolutely put the resources in place,”—that is a near daily discussion that I am having”.<sup>185</sup> The then Second Permanent Secretary Shona Dunn added:

I beg the question every day: can we build up resources, and if we build up resources faster, can we move faster? As we are learning, the answer is becoming yes. I have 11 new caseworkers starting on Monday who are already fully trained, and that trajectory will continue week on week from here until I am absolutely satisfied that there is no further margin for speeding anything up as a consequence of caseworker capacity.<sup>186</sup>

The NAO found that performance data is held in different formats for different periods of the scheme and staff said that this makes reporting management information to the Windrush Oversight Board<sup>187</sup> more difficult.<sup>188</sup>

87. In written evidence submitted to us in December 2020, the Home Office listed continued recruitment into the scheme as one of several operational improvements that had been made and said this was “designed to raise staffing numbers [across the compensation team] from 100 in June 2020 to 150 in June 2021.”<sup>189</sup> The NAO said that it was told by the Home Office that in March 2021 it “required 51 full-time equivalent caseworkers and had 53 in post”. The NAO continued to report “However, its records do not provide a clear picture of the number of caseworkers it needs and we found that the capacity plan and staff in post record differed from the figures presented to the scheme’s senior management team”.<sup>190</sup> It also found that “The Department is reluctant to increase the number of caseworkers significantly, because it recognises that the scheme’s complexity means that it takes time for new staff to get up to speed. It is considering increasing caseworker numbers by up to 10 before the end of June 2021”.<sup>191</sup>

182 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 15.

183 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 14.

184 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 12.

185 [Q50](#).

186 [Q51](#).

187 The Windrush Oversight Board provides oversight and monitoring of the development and performance of the Windrush Compensation Scheme. It reports to the Steering Group, which is the decision-making body on all Windrush matters. The Steering Group comprises of senior staff from across the Department and is chaired and accountable through the Permanent Secretary.

188 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.7.

189 Home Office ([WCS0018](#)).

190 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.3.

191 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 12.

88. On 7 June 2021 the Deputy Director of the Windrush Compensation Scheme, Tom Greig, told the Public Accounts Committee “We are currently on track to [conclude 90% of cases submitted before the end of 2020 by the end of August 2021], but it requires a significant uplift in output and productivity in the next three months to do so”. Asked how the Department would achieve this, the Deputy Director said:

additional caseworkers [ ... ] are now fully online and starting to decide cases. There is additional casework productivity. We are looking to review processes, and we hope to soon issue some new guidance around evidential requirements and what information caseworkers should ask for, which will further streamline the process.

We are working with quality assurance to ensure that cases pass through that bit of the process as quickly as possible. It is a mixture of additional resource and process improvement. [ ... ] We are seeking to use what we call our ICT—initial consideration team—to contact applicants as soon as their case has come in, to start gathering information at that stage where they can [ ... ].<sup>192</sup>

However, in September 2021, the Permanent Secretary told us that this internal target had not been met: 66% of claims submitted before the end of 2020 were concluded by the end of August 2021.<sup>193</sup> In response to a written question, the Home Secretary advised that, as of August 2021, there were 63.1 full-time equivalent caseworkers in the compensation team, which would increase by 56 caseworkers over the next four months.<sup>194</sup>

**89. Given that the Windrush Compensation Scheme was set up to right the wrongs done by the Home Office to a predominantly older generation, many of whom had suffered considerable hardship as a result, there should have been a clear focus from the start on ensuring that compensation could be paid as swiftly and smoothly as possible. It is therefore staggering that the Home Office first failed adequately to prepare for, resource and staff the Windrush Compensation Scheme before opening it for applications, and then failed again to monitor the performance of the scheme sufficiently and to identify the cause of the delays. The complex nature of the impacts suffered by those affected was evident both in the extensive media coverage of the scandal and in responses to the Home Office’s own public consultation on the design of the scheme: that the complexity of applications it received seemingly took the Department by surprise is incomprehensible. It has taken far too long for the Department to accept that greater increases to the number of caseworkers were required. We consider that the long waits faced by claimants were not inevitable and believe the Home Office must accept responsibility for its part in causing these delays.**

**90. We welcome the reviews the Department is now undertaking to get to grips with the application and casework process and the plans to increase casework capacity further. However, we believe it has taken far too long for this to happen given the concerns—such as the evidential requirements of the scheme—which have been raised repeatedly since it opened. We are concerned that the Home Office failed to meet its August milestone and consider that it will struggle to make adequate progress unless**

192 [Q59](#)

193 [Q296](#)

194 [PQ 47027](#) [[on Windrush Compensation Scheme](#)], 10 September 2021.

it takes significant action and takes it very quickly. *The Home Office must build on the work of the NAO and undertake a comprehensive analysis of its current workflow system to identify precisely where and why bottlenecks, backward steps, inefficient processes and slow decisions are occurring. It must interrogate these findings rigorously and be prepared to act swiftly and boldly to address causes of delay, including updates to caseworker training and guidance and, where necessary, the scheme rules.*

91. *The Department must act urgently to improve its performance management information and clarify its casework capacity and staffing needs, ensuring that casework capacity is expanded as quickly as possible. The Department should share its findings and the actions it is taking to address them with this Committee. It should provide an initial response within two months of the publication of this report and further updates after four months and six months.*

## Complexity of the scheme

92. Some witnesses raised concerns with us that the design and complexity of the scheme added to the delays and that it would have been possible to operate a simpler, faster scheme. We explore the complex design of the scheme and the Home Office requirements for evidence and burden of proof in chapters four and five.

93. Many campaigners also called for an early upfront payment to be based on the fact that a wrong had been done by the Home Office, rather than on a detailed assessment of the level of individual harm caused. This kind of initial reparation payment would then be supplemented by an additional compensation process to reflect the different impact on people's lives.

94. Patrick Vernon OBE set up a petition for a “restorative compensation scheme”, which included the recommendation that “Anyone that has been directly affected by the Windrush scandal should have an automatic payment of £10,000 without proving any documentary evidence of hurt or financial loss”.<sup>195</sup>

## *The introduction of a preliminary impact on life award*

95. The Home Office has so far resisted this kind of approach to an automatic initial payment. However, in December 2020 the Department introduced a new early payment mechanism for impact on life. Previously, an individual would not receive a compensation offer for impact on life until the caseworker had fully assessed this element of their claim and determined which level to award. Under the changes, eligible claimants<sup>196</sup> who can demonstrate an impact on their life under the terms of the scheme rules can receive a preliminary £10,000 payment in advance of the impact on life category being fully assessed.<sup>197</sup> If an early payment is granted, caseworkers will continue to assess this category of claim

195 [38degrees.org.uk](https://38degrees.org.uk), ‘[Restorative Compensation Scheme for Windrush Scandal](#)’, (accessed 29 October 2021).

196 The preliminary impact on life payment is open to primary claimants (people who suffered loss as a result of not being able to demonstrate their lawful status) and claims on behalf of deceased primary claimants. Close family members remain ineligible for a Level 1 impact on life award and are not therefore eligible for the new preliminary payment.

197 [Correspondence from Matthew Rycroft, Permanent Secretary, Home Office, re Windrush Compensation Scheme](#), 16 December 2020.

in full and, if the claimant is entitled to a higher level of award, they will receive a further offer of compensation which deducts the early £10,000 payment.<sup>198</sup> The NAO identified the rationale for the December changes, as described in internal documentation:

- a) give a clear signal of a genuine willingness to listen and respond to feedback;
- b) recognise the extent of the hurt and suffering individuals have experienced;
- c) effectively ‘make up’ for the fact that some individuals are receiving relatively small compensation awards because it is proving more difficult to evidence their losses, or because their experiences are not adequately covered by the scheme;
- d) discourage individuals from seeking a review when they receive their final award, since they have already received a significant sum of money;
- e) make the scheme better value for money from a casework perspective; and
- f) providing it is as a minimum payment, get significant money to claimants quickly.

The change also simplified the levels of payment by combining levels 3 and 4.<sup>199</sup>

96. The NAO concluded that the changes to the scheme in December have achieved some progress in tackling the delays. Approximately 81% of the compensation paid to date has been paid since the changes; however, the NAO also estimated that 60% of these payments were impact on life uplift payments or preliminary awards rather than payments made to finalise claims.<sup>200</sup>

97. In a letter to claimants dated 14 December 2020 the Home Office informed those who had not yet received a final offer that “we will firstly consider whether you are entitled to a preliminary payment of £10,000 or make you a full and final offer which will be based on the new impact on life payment levels. [ ... ] 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”.<sup>201</sup> As at 25 March 2021, the scheme had offered 362 preliminary awards of which 255 had been accepted; 228 had been paid.<sup>202</sup>

98. It is difficult to assess fully the progress that was made on existing claims during this period because the Home Office only routinely publishes the number and value of completed payments.<sup>203</sup> Whilst the Department has regularly stated the total value of

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198 [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p85.

199 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 6, p22.

200 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 16.

201 HM Government, [‘Changes to the Windrush Compensation Scheme’](#), 14 December 2020.

202 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

203 Home Office, [‘Windrush Compensation Scheme data: June 2021’](#), 24 June 2021, WCS\_05.



compensation offered, it often does not say how many claims this relates to.<sup>204</sup> Furthermore, the published data does not distinguish between interim, preliminary or full and final payments. *The Home Office should clarify what progress it made on processing cases submitted prior to 14 December 2020 between 14 December 2020 and 31 March 2021; additionally, going forwards, the scheme data it publishes monthly should include: the number of offers made; whether offers are interim, preliminary or final, and the number of claims that have been in the scheme for a) 6–12 months, b) 12 to 18 months, c) 18 to 24 months and d) longer than 24 months.*

99. Not all claimants are expected to benefit from a preliminary payment. A letter from the Home Secretary in February 2021 advised that “Our current assessment is that 40–50% of cases will qualify for a preliminary payment on initial assessment [within six weeks of being submitted], 25% to 35% will likely qualify at a later stage in the process, and 25% represent claims that will not ultimately qualify for an award”.<sup>205</sup> We asked what might prevent a case from qualifying for the early payment during the initial assessment and how claimants are supported to understand the evidence they need to provide. The Home Secretary responded that a preliminary award could not be made if there was “limited evidence of information about losses or impacts” or if the caseworker is not yet satisfied that the losses being claimed for were caused by an inability to demonstrate lawful status. The Home Secretary explained that:

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.<sup>206</sup>

100. We have also sought evidence on the impact of the changes to the scheme to understand how the changes are working for individuals. North Kensington Law Centre wrote that they had seen a number of their clients receive an increased offer for impact on life and that some had been able to accept the new preliminary payment.<sup>207</sup> However, they concluded that:

Many claimants have been refused a preliminary award with no justification offered which has left many people distressed and worried about the full assessment of their claim. Some claimants [who] have accepted awards in light of a revised offer for impact on life however have expressed they are simply accepting the increased award as they wish to move on with their lives, so it is reasonable to say that people are now accepting higher awards for the impact on life [who are] however settling for no award on other sections of the claim.<sup>208</sup>

204 See for example Gov.uk, ‘[Over £1 million offered in compensation to the Windrush generation](#)’, (accessed 1 July 2020); Gov.uk, ‘[Over £26 million compensation offered to the Windrush generation](#)’, (accessed 1 July 2021); Gov.uk, ‘[Almost £30 million in compensation paid or offered to the Windrush generation](#)’, (accessed 1 July 2021).

205 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

206 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

207 North Kensington Law Centre ([WCS0032](#)).

208 North Kensington Law Centre ([WCS0032](#)).

Evidence we received from Leigh Day also raised concerns about individuals who are likely to receive, or who have accepted, an unsatisfactory offer because they no longer wished to engage with the scheme. Leigh Day noted that one of their clients had instructed the Home Office to decide their claim based on the evidence they had previously submitted because “The repeated requests for further evidence / information are triggering and have led him to coming close to withdrawing his application so that he can experience closure”.<sup>209</sup> Another Leigh Day client wrote “Whilst it falls quite short of what I was hoping for I have decided to cut my losses and accept... I have no fight left in me this has been an arduous process”.<sup>210</sup> Mr Williams, himself a claimant, said “some people have accepted these low offers because they’re desperate”.<sup>211</sup>

**101. Whilst we strongly welcome the introduction of the preliminary payment for impact on life, we are disappointed by the Home Office’s estimate that only 40–50% of claimants will benefit from it. It is right that the Home Office created a mechanism to accelerate payments in light of unacceptable delays, but these preliminary awards clearly do not go far enough. The Windrush generation are an ageing cohort and too many individuals have already died without receiving compensation for the hardship they endured. This must not happen again.**

*102. The Home Office should provide the preliminary £10,000 impact on life award to all those the Department has previously acknowledged were wrongly subjected to immigration enforcement measures or were wrongly denied proof of their lawful status as a result of the Windrush scandal. The award should be issued irrespective of whether the claimant can evidence harm or financial losses caused by the Home Office’s failure to ensure that individuals could demonstrate their lawful status; it should be made in recognition of the Department’s appalling treatment of the Windrush generation when it lost sight of this cohort and in recognition of the fact that many of those affected are part of an ageing generation that has contributed heavily to this country, but that cannot wait many years for compensation to be calculated. The £10,000 should be paid within two months and any further calculated compensation entitlement must follow.*

**103. We also strongly welcome the increased payments for impact on life. However, we are troubled that one of the reasons identified by the NAO for this change was, effectively, to supplement other categories of loss where compensation is either insufficient or inaccessible due to the evidential requirements. We are saddened to hear that some individuals have accepted an offer which does not reflect their losses because they could no longer face the process. *The changes made to the scheme in December do not go far enough to address the delays and the unreasonable demands for evidence which claimants are facing.***

### **Estate claims**

**104. Between September 2020 and March 2021, the Home Office did not make payment to any estate claims and the NAO found that as at the end of March 2021, “More than**

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209 Leigh Day ([WCS0013](#)).

210 Leigh Day ([WCS0013](#)).

211 Mr Williams ([WCS0021](#)).

one-third of estate claims (34%) had not moved past the first registration stage of the compensation process”.<sup>212</sup> As at the end of September 2021, the Home Office had received 200 claims on behalf of an estate and 6 of these claims have received payment.<sup>213</sup>

105. To claim compensation on behalf of a deceased claimant, the representative must submit a copy of the relevant grant of probate or letters of administration.<sup>214</sup> Ms Ankrah described this requirement as “an administrative hurdle which in small claims is likely to act as a barrier to people ever making a claim”. She told us that where individuals had died destitute, without income from employment or prematurely it was unlikely that they would have made a valid will and suggested that the Home Office should meet the costs of arranging probate or letters of administration.<sup>215</sup>

106. Appearing before the Public Accounts Committee on 7 June 2021, the Deputy Director of the compensation scheme acknowledged the difficulty in progressing estate claims without this documentation but said that this was a legal requirement.<sup>216</sup> He also said that the Home Office was in discussion with the probate office and others and looked “shortly to bring forward a range of measures that we hope will seek to resolve some of these issues”.<sup>217</sup>

107. On 21 July 2021, the Home Secretary announced a package of support to assist people making a claim on behalf of an estate in obtaining the legal documentation required by the Home Office to process their claim.<sup>218</sup> The claimant assistance provider, We Are Digital, will support people in applying for probate. The Home Office “will pay for or reimburse the grant application fee (if there is one) and up to £1,500 towards legal advice sought in applying for a Grant of Representation, subject to certain conditions”.<sup>219</sup>

- If a successful application for probate was made on or after the date the Windrush Compensation Scheme launched,
- If the representative of the estate has applied to the Scheme and eligibility requirements have been confirmed,
- If the legal costs are associated with the probate application process only,
- If evidence of the costs incurred is provided.<sup>220</sup>

As of 8 September 2021, 32 representatives of an estate have requested assistance with applying for probate. The Home Office has contacted all 119 claimants who had previously applied for compensation on behalf of an estate, where it has confirmed the eligibility of the primary claimant, with information about the support available to them.<sup>221</sup>

212 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.8.

213 Home Office, [‘Windrush Compensation Scheme data: October 2021’](#), 28 October 2021, WCS\_01 and WCS\_05.

214 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021, p26.

215 Alexandra Ankrah ([WCS0027](#)).

216 [Q72](#).

217 [Q72](#).

218 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), dated 20 July 2021.

219 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), dated 20 July 2021.

220 Gov.uk, [‘Support available to make a claim as a representative of an estate’](#), (accessed 11 August 2021).

221 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.



108. **Given the very apparent delays in processing estate claims and the clear reason for this, it is unacceptable that the Home Office has only recently provided a solution. The Home Office should monitor the impact of its package of support carefully to ensure that it is meeting the needs of people who are claiming on behalf of an estate.**

## Communication with caseworkers

109. Following concerns about the lack of updates for claimants facing significant delays,<sup>222</sup> the Permanent Secretary announced in September 2020 that everyone who applied to the scheme was to be provided with a named caseworker for the main part of their claim and that everyone who wanted regular updates would be contacted monthly.<sup>223</sup> Despite these changes, concerns remain about a lack of substantive updates on the progress of claims.

110. The monthly updates provided have been described as “robotic, scripted”<sup>224</sup> and “standardised and generic”.<sup>225</sup> In oral evidence Holly Stow told us that the lack of detail on where within the process the application is, or a possible timescale for an offer, is a particular source of frustration:

The lack of transparency as well, once a claim is put in with a caseworker, causes more anger, upset and frustration with the claimants. [ ... ] Giving people a little bit of an idea what is happening with their lives essentially would help. I had an e-mail this morning from a caseworker giving me an update on one of my cases, and it literally says, “You are notified that we continue to progress the claim and confirm that his claim has moved to the next stage”. That is it. That is the update. I am aware it is still there because we put the claim in. What is this “next stage”? What are you doing? This is a claim we put in last year.<sup>226</sup>

Malcolm Johnson of Hudgell Solicitors wrote “I cannot say that my firm has ever had any conversations with caseworkers that have proved helpful or fruitful,” and contrasted the communication on Windrush compensation claims with other schemes:

We have not yet had a conversation with a case worker about the best way forward to progress a claim. These are conversations that take place all the time with the Lambeth Children’s Homes Redress Scheme [ ... ] and in our experience those conversations can also take place when dealing with the Criminal Injuries Compensation Authority. Our suspicion is that the caseworkers who were tasked with administering the Scheme were never prepared or resourced to deal with the volume and complexity of these claims.<sup>227</sup>

111. **Claimants facing long delays deserve to know where their claim is in the process and to understand what progress has been and is currently being made on their claim. Updates should be substantive and all communications must maximise opportunities to make further progress.**

222 [Q63](#).

223 [Letter from the Permanent Secretary following up on his appearance before the Committee](#), 2 September 2020.

224 United Legal Access ([WCS0007](#))

225 Wilson Solicitors ([WCS0015](#))

226 [Q15](#).

227 Hudgell Solicitors ([WCS0012](#)).

## 4 Applying to the Scheme

I didn't understand the form because what we were told is fill it in and it will be simple. [ ... ] so I thought, okay, they've got all my paperwork, brilliant, I'll just fill it in.

But, unbeknown to me, it didn't go like that, you really needed legal help.<sup>228</sup>

112. Throughout our inquiry witnesses told us that the application process both deterred people from applying and also contributed to the delays in the scheme. From April 2019 to July 2021, to apply to the Windrush Compensation Scheme, individuals were required to complete an eighteen-page claim form. This required them to tick which of the thirteen categories of loss were relevant to their claim and to complete a blank text box for each category with details of the losses and impacts suffered; claimants could continue on plain paper if necessary.<sup>229</sup> Claimants were told that they “will need to be able to prove that any impact or loss [they] suffered was a direct result of being unable to demonstrate [their] lawful right to stay in the United Kingdom”<sup>230</sup> and were asked to “tell [the Home Office] about any steps [they] have taken to try to reduce the impacts or losses [they] are claiming for”.<sup>231</sup> The claim form also advised claimants that they will need to provide evidence in support of their application.<sup>232</sup>

113. Primary claimants were referred to forty-seven pages of claim form guidance;<sup>233</sup> there are separate application forms with accompanying guidance for both close family members and for representatives of an estate.<sup>234</sup>

114. In July 2021, the Home Office issued a revised primary claimant claim form and accompanying guidance.<sup>235</sup> Individuals are now required to complete a forty-four page application form and are referred to twenty pages of claim form guidance.<sup>236</sup> The Home Office will also be issuing revised claim forms and accompanying guidance for close family members and those claiming on behalf of an estate.<sup>237</sup> Claimants can submit their completed form either by post or by email.

115. In this chapter, we will first consider the concerns raised about the claim form applicants were required to complete between April 2019 and July 2021 and its accompanying guidance; we will also consider the changes made to these documents in

228 Glenda Caesar([WCS0025](#)).

229 Home Office, Windrush Compensation Scheme Primary Claimant Claim Form, December 2020, pp5–15. This version of the Primary Claimant Claim Form is no longer available online. This wording remains in Home Office, [Windrush Compensation Scheme Deceased Estates Claim Form](#), October 2021, p7.

230 Home Office, Windrush Compensation Scheme Primary Claimant Claim Form, December 2020, p5. This version of the Primary Claimant Claim Form is no longer available online. This wording remains in Home Office, [Windrush Compensation Scheme Deceased Estates Claim Form](#), October 2021, p6, 3.1.

231 Home Office, Windrush Compensation Scheme Primary Claimant Claim Form, December 2020, p6. This version of the Primary Claimant Claim Form is no longer available online. This wording remains in Home Office, [Windrush Compensation Scheme Deceased Estates Claim Form](#), October 2021, p7

232 Home Office, Windrush Compensation Scheme Primary Claimant Claim Form, December 2020, p6. This version of the Primary Claimant Claim Form is no longer available online. This wording remains in Home Office, [Windrush Compensation Scheme Deceased Estates Claim Form](#), October 2021, p7

233 Home Office, Windrush Compensation Scheme Claim Form Guidance: Primary Claimant, December 2020. This version of the Primary Claimant Claim Form Guidance is no longer available online

234 Home Office, [Windrush Compensation Scheme: claim forms and guidance](#), (accessed 22 June 2021).

235 Gov.uk, ['Windrush Compensation Scheme: claim forms and guidance'](#), (accessed 27 July 2021).

236 This is accurate as of 17 November 2021.

237 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

July 2021. We will then go on to consider the support for applicants that the Department is currently providing through the Claimant Assistance Service, and calls for the Home Office to provide funding for legal assistance with applications.

## Concerns about the application form and guidance to July 2021

116. The Home Office has asserted repeatedly that the compensation scheme was designed to be as simple for applicants as possible.<sup>238</sup> However, we heard concerns that, whilst “The claim form itself, on the face of it, is not difficult”,<sup>239</sup> what the application process requires of individuals is too complex.<sup>240</sup> Claimants had described the form and accompanying guidance in use until July 2021 as “overwhelming, confusing and stressful”.<sup>241</sup>

117. Windrush Action described the claim form as “misleadingly simple”<sup>242</sup> and this view has also been expressed by claimants. Christian Hayibor told us:

they worded it simply, but they didn’t tell you the in-depths of what you would be required to give. So, people were writing out the compensation claims, like myself, very sparingly. Saying, look, you’ve got information from the past—this is what happened, basically giving them bullet points on my form.<sup>243</sup>

Anthony Williams told us:

they said the scheme would be easy, so I thought okay no problem I will fill the scheme out to the best of my ability and then I’ll send it off to them. But after sending it off and then really sitting down and going through the guidelines, I realised that I needed some help and by that time it is too late.<sup>244</sup>

118. Wilson Solicitors, which had prepared applications on behalf of some claimants, wrote that it did not consider the applications “straightforward to prepare”; it described the scheme as “too complex, arduous and inaccessible for lay claimants”.<sup>245</sup> Ms McKenzie wrote that the difficulties with making a claim primarily relate to the requirements to gather evidence in support of the claim. She noted that there are particular difficulties in evidencing the impact on life and loss of access to employment aspects of a claim:

We have spent over a year with some claimants trying to assist them to get GP records, employment and HMRC records and trawling through their life histories to evidence a claim.<sup>246</sup>

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238 HL Deb, 3 April 2019, [col 178](#) [Lords Chamber]; HC Deb, 10 February 2020, [col 623](#) [Commons Chamber]; PQ 93692 [[on Windrush Generation: Compensation](#)], 28 September 2020 ; Home Office, ([WCS0018](#)); [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

239 North Kensington Law Centre ([WCS0014](#)).

240 See for example Windrush Legacy Oxon ([WCS0011](#)), Leigh Day ([WCS0013](#)), Wilson Solicitors LLP ([WCS0015](#)), Ravi Nayer ([WCS0016](#)), Duncan Lewis ([WCS0020](#)), Mr Tobierre and Ms Tobierre ([WCS0022](#)), Windrush Lives ([WCS0023](#)), Alexandra Ankrah ([WCS0027](#)).

241 North Kensington Law Centre ([WCS0014](#)).

242 Windrush Action ([WCS0009](#)).

243 Christian Hayibor ([WCS0025](#)).

244 Mr Williams ([WCS0021](#)).

245 Wilson Solicitors LLP ([WCS0015](#)).

246 Jacqueline McKenzie ([WCS0033](#)).

119. The guidance previously provided to claimants was described as “lengthy and complicated”.<sup>247</sup> In oral evidence, Martin Forde QC described it as “fairly opaque to non-lawyers and to those who are not used to dealing with documentation”. He had suggested that the guidance be Crystal Marked<sup>248</sup> but this “did not happen”.<sup>249</sup> Ms McKenzie suggested that the guidance could be improved by providing further clarification as to what constitutes evidence and including an evidence checklist for claimants to refer to.<sup>250</sup>

### **Changes to the application form and guidance**

120. On 21 July 2021, the Home Office issued a revised primary claimant claim form and accompanying guidance.<sup>251</sup> The Home Secretary wrote “we have been working with stakeholders to [ ... ] make [the claim forms] easier for individuals to complete, and to better capture the key information our caseworkers require to process claims. We hope this will help to reduce the time taken to process claims and improve customers’ experiences of applying to the scheme”.<sup>252</sup> The new primary claim form has a Crystal Mark from the Plain English Campaign.<sup>253</sup> However, referring to the original application form, Garden Court Chambers wrote that “plain language does not always equate to ease of access”.<sup>254</sup>

121. The revised primary claimant claim form includes information about the evidence requirements for each category of claim and examples of the types of documentation an individual could provide: it makes the Home Office’s role in gathering evidence on claimants’ behalf more apparent. For categories of claim for which the Home Office may use its own records to verify the information provided on the form, such as detention, deportation, removal and return, claimants are now advised that they do not need to provide documentary evidence. For categories of claim where evidence is required, claimants are advised not to worry if they do not have any evidence “as [the Home Office] will try to help you get this evidence”.<sup>255</sup>

122. **We welcome the improvements that have been made to the claim forms and accompanying guidance. However, we are disappointed that the Home Office did not act upon the advice of its then independent adviser and that it took more than two years to make these changes, during which time the scheme has significantly underperformed. Reissuing the claim form guidance in plain English is a welcome first step in improving the application process, but the Department must continually be aware that the demands of this form may still represent a significant challenge to this cohort, many of whom may be vulnerable. As we were told by Garden Court Chambers, “plain language does not always equate to ease of access”. The Home Office must also address the adequacy of support available to claimants in completing their application.** We discuss the issues with evidence requirements further in paragraphs 142–157.

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247 Leigh Day ([WCS0013](#)).

248 The Crystal Mark signifies that the clarity of a document has been approved by the [Plain English Campaign](#).

249 [Q42](#).

250 Jacqueline McKenzie ([WCS0033](#)).

251 Gov.uk, ‘[Windrush Compensation Scheme: claim forms and guidance](#)’, (accessed 27 July 2021).

252 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

253 Home Office, [Windrush Compensation Scheme Primary Claimant Claim Form](#), July 2021, p1.

254 Garden Court Chambers ([WCS0019](#)).

255 Home Office, [Windrush Compensation Scheme Primary Claimant Claim Form](#), July 2021.

## Assistance with completing applications

123. The majority of respondents to the compensation scheme consultation (96%<sup>256</sup>) believed that claimants should be offered assistance with completing their application. Suggestions for the type of assistance that should be provided included: assistance with the application form, assistance gathering evidence, free legal advice, and help understanding the process.<sup>257</sup> Respondents also suggested that claimants “should be able to access independent legal advice before accepting a compensation award”.<sup>258</sup>

### *The Claimant Assistance Service*

124. In April 2019, Citizens Advice was appointed to provide an assistance service for claimants.<sup>259</sup> Following a competitive tender process the Home Office announced in December 2020 that We Are Digital (WAD) would provide this service<sup>260</sup> from 1 March 2021 until at least 30 June 2023.<sup>261</sup> In oral evidence, Ms McKenzie said it was not clear why the contract was retendered.<sup>262</sup> Until recently, individuals could only access the claimant assistance service via a referral from the Windrush Helpline and, to the end of September 2021, the team have referred 1,421 people.<sup>263</sup>

125. The Home Office has pointed to the support available through its claimant assistance service to counter calls for legal support.<sup>264</sup> However, evidence we have received suggests that not all claimants have felt able to access this support because of the requirement to contact the Home Office for a referral.<sup>265</sup> In light of concerns that having first to approach the Home Office may be off-putting to potential claimants, the Department has recently enabled people who only need help with filling in the application form to contact We Are Digital directly.<sup>266</sup>

**126. We welcome the Home Office’s decision to enable individuals to contact We Are Digital directly for assistance with their application form; this recognises that some people who are eligible for compensation will not feel comfortable accessing assistance through the Department.**

127. Some of the evidence we received in relation to the service as provided by Citizens Advice also raised concerns about the level of support available through the claimant assistance service.<sup>267</sup> North Kensington Law Centre reported that they had received some referrals from Citizens Advice.<sup>268</sup> Alexandra Ankrah told us that Citizens Advice

256 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 3.35.

257 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 3.37.

258 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 3.69.

259 Citizens Advice, [‘Citizens Advice to help those applying to the government’s Windrush compensation scheme’](#), (accessed 22 June 2021).

260 Gov.uk [‘Windrush Compensation Scheme factsheet - December 2020’](#), (accessed 22 June 2021).

261 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

262 [Q27](#).

263 Home Office, [‘Windrush Compensation Scheme data: October 2021’](#), 28 October 2021, WCS\_04.

264 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

265 Anonymous (WCS0004). Duncan Lewis (WCS0020), Mr Williams (WCS0021), [Q51](#) (Martin Forde QC).

266 Gov.uk, [‘Apply to the Windrush Compensation Scheme’](#), (accessed 15 November 2021).

267 See for example, Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), North Kensington Law Centre ([WCS0014](#)), Ravi Nayer ([WCS0016](#)), Alexandra Ankrah ([WCS0027](#)).

268 North Kensington Law Centre ([WCS0014](#)).



training “did not include handling trauma”; the training also suggested that staff signpost claimants who needed assistance with aspects of the scheme such as impact on life to a solicitor.<sup>269</sup>

128. In oral evidence, Ms McKenzie told us she was concerned about the number of people referred by the Windrush Help Team to Citizens Advice and whether the new provider “is perhaps going to see even less people”.<sup>270</sup> She also questioned whether WAD had relevant experience either working with this cohort or delivering compensation.<sup>271</sup> She wrote that “the work needed now is not assistance with online access but significant advice, legal and hand holding throughout the claims process delivered in a culturally sensitive way”.<sup>272</sup>

129. We asked the Home Secretary what made WAD particularly suited to this work.<sup>273</sup> She responded that WAD has operated the Home Office Assisted Digital Service (assisting individuals to make visa applications online) for the last 3 years. WAD has also provided services such as a vulnerable person’s phone line and a debt advice programme. The Home Secretary also noted that WAD works with “community focused partners” through whom it has “a nationwide network of community-based centres including CAB offices, libraries, town halls, church groups, Mosques, training providers and other community groups”.<sup>274</sup>

130. Training materials and supporting documents for those delivering assistance to claimants are available on the WAD website.<sup>275</sup> Partners are advised that they can provide up to a maximum of 3 hours support to a claimant over one or multiple sessions.<sup>276</sup> This contrasts with evidence we heard from Hudgell Solicitors, who expect to do at least 50 hours of work per claim, and Leigh Day, who have spent an average of 45 hours preparing each claim (see paragraph 133). Suggested session plans on the WAD website include allocating 1.5 hours for an in-depth interview to establish what evidence a claimant has for each applicable category of claim.<sup>277</sup> If a claimant requires more than 3 hours support to complete their application, partners are advised to contact WAD who will then, on a case-by-case basis, seek the Home Office’s approval to book a further support session. WAD collects feedback from claimants through a survey which is completed at the end of their support session.<sup>278</sup>

**131. It is essential that claimants to the scheme have ready access to the end-to-end support they need in ways which are comfortable for them. Given the nature and the complexity of the impacts suffered, we are very concerned that support sessions are limited to three hours. We urge the Home Office to enable We Are Digital to book as many additional support sessions for claimants as are needed and to monitor feedback from claimants carefully to ensure any gaps in support are identified. We believe that the service provided by We Are Digital should complement rather than replace specialist legal support.**

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269 Alexandra Ankrah ([WCS0027](#)).

270 [Q1](#).

271 [Q27](#).

272 Jacqueline McKenzie ([WCS0033](#)).

273 [Letter to the Home Secretary on changes to the Windrush Compensation Scheme in December 2020](#), 26 January 2021.

274 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

275 [We-are-digital.co.uk, 'Windrush resources'](#), (accessed 16 September 2021)

276 We Are Digital, [2021 Windrush Compensation Scheme Support Pack](#), v1.5, p6.

277 We Are Digital, [2021 Windrush Compensation Scheme Support Pack](#), v1.5, pp14–15.

278 We Are Digital, [2021 Windrush Compensation Scheme Support Pack](#), v1.5, p11.

## Calls for legal assistance

132. In August 2020, *The Guardian* reported that nine law firms had written to the Home Secretary to raise concerns about the compensation scheme, including concerns about the decision not to make legal aid available for claimants.<sup>279</sup> The Home Office wrote to us in December 2020 that “The Scheme has been designed so that people should not need to seek help from the legal profession”,<sup>280</sup> but many of the submissions we received said legal assistance was needed and that providing this would improve the Scheme for claimants.<sup>281</sup> In March 2021, the Home Secretary wrote “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”.<sup>282</sup> However in written evidence Ms McKenzie said:

The lack of an option for claimants to choose their legal advisors [ ... ] is almost unheard of in a scheme such as this. The consequences are severe and include claimants having to give up between 25% and 30% of their compensation to solicitors [ ... ]. I have even seen a copy of a conditional fee agreement where a client was expected to give up 67% of their compensation award.<sup>283</sup>

133. Written evidence from legal firms assisting with compensation claims stressed the complexity of compiling the evidence required to support applications and the time spent working on each claim. Hudgell Solicitors, who are acting for fourteen claimants, said “One of our clients has a loss of earnings claim that runs from around 2006 to around 2018. Another has a claim that runs from around 2009 to 2012. In order to evidence these claims, it was necessary to obtain their complete tax and national insurance records, prepare a detailed statement explaining the loss and how it arose and provide to the scheme a bundle of supporting evidence. On each of these files, we have done around [ ... ] 35 hours and we expect to do at least 50 hours in order to bring their claims to a successful conclusion”.<sup>284</sup> Leigh Day, a firm of solicitors, said they had been instructed by thirty individuals and “have spent an average of 45 hours per client preparing their claims. This is based on a range of between 32 and 103 hours”.<sup>285</sup> In oral evidence, we were told that claimants, often, “have never even encountered any kind of court system or any sort of legal process in their lives”; to them the requirements to write a ‘witness statement’ and to ‘get evidence’ may be bewildering.<sup>286</sup> “If you are a layperson, why would you know what that means?” asked Ms McKenzie, adding that “That is why legal assistance is needed”.<sup>287</sup>

134. We have also heard concerns that individuals who complete the application form or consider their compensation offer without assistance may be disadvantaged. Duncan

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279 *The Guardian*, ‘[Windrush payout scheme not fit for purpose, say lawyers](#)’, 27 August 2020.

280 Home Office, ([WCS0018](#)).

281 UNISON ([WCS0005](#)), Trades Union Congress ([WCS0006](#)), United Legal Access ([WCS0007](#)), Windrush Action ([WCS0009](#)), Hudgell Solicitors ([WCS0012](#)), Leigh Day ([WCS0013](#)), North Kensington Law Centre ([WCS0014](#)), Wilson Solicitors LLP ([WCS0015](#)), Ravi Nayer ([WCS0016](#)), Windrush Justice Clinic ([WCS0017](#)), Garden Court Chambers ([WCS0019](#)), Duncan Lewis ([WCS0020](#)), Mr Williams ([WCS0021](#)), Windrush Lives ([WCS0023](#)), Dominic Akers-Paul et al ([WCS0025](#)), Alexandra Ankrah ([WCS0027](#)).

282 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

283 Jacqueline McKenzie ([WCS0033](#)).

284 Hudgell Solicitors ([WCS0012](#)).

285 Leigh Day ([WCS0013](#)).

286 [Q11](#).

287 [Q11](#).



Lewis Solicitors said “The [Windrush Compensation Scheme] Rules include detailed provisions and criteria on having to evidence losses, double recovery, criminality, and eligibility. It is not enough for claimants simply to submit a simple claim; it is clear from any examination of the Rules and the guidance that claims will not all be treated equally if they fail to meet the requirements”.<sup>288</sup> The Home Secretary told us that, to ensure no one is disadvantaged, all claims are allocated to a caseworker who works closely with the individual to gather evidence and to understand their experience.<sup>289</sup> However, the NAO reported that an average of 4.4 caseworkers work on a claim before the offer stage<sup>290</sup> and that errors in compensation calculation were identified during case file testing.<sup>291</sup> Some witnesses suggested that claimants should be given access to legal advice prior to accepting an offer of compensation.<sup>292</sup>

135. We heard of a number of cases where caseworkers had contacted claimants to request further information after their initial submission.<sup>293</sup> Whilst the Home Office states that requests for further information are intended to maximise compensation awards, claimants do not necessarily perceive direct contact as supportive and we have heard concerns that such approaches from the same Department that caused their losses can be traumatic for individuals, meaning some prefer to manage their claim through their representative.<sup>294</sup> Ms Stow told us some of her clients do not want any contact with the Home Office “because them calling triggers people”.<sup>295</sup> Ms McKenzie said there was a risk that ongoing requests for further information from caseworkers could cause claimants to “give up”<sup>296</sup> and told us that people should be given a choice over where they access support with their claim:

There needs to be some resources put in this area of work so that people can approach organisations, lawyers, community centres of influence that are relevant to them, where they will feel confident and comfortable to go along and discuss what are quite deeply personal issues.<sup>297</sup>

136. It has also been suggested that support for legal assistance would make the scheme operate more fairly for claimants. Ravi Nayer, who designed the redress scheme for survivors of historic child sexual abuse at Manchester City Football Club, wrote that where, as in the Windrush Compensation Scheme, redress schemes are operated on an adversarial basis (for example, where compensation can be reduced or declined on the basis of evidence that is provided), provision should be made for legal advice “to place applicants in a position to prepare their claim cognisant of the risks of an adversarial process”.<sup>298</sup>

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288 Duncan Lewis ([WCS0020](#)).

289 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

290 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.9.

291 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.18.

292 North Kensington Law Centre ([WCS0014](#)), Alexandra Ankrah ([WCS0027](#)).

293 On 21 July 2021, the Home Office published revised guidance for caseworkers which includes further guidance on steps caseworkers should take or consider before contacting a claimant for further information. See Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021, pp36–37.

294 Leigh Day ([WCS0013](#)), Duncan Lewis ([WCS0020](#)), Mr Williams ([WCS0021](#)), Christian Hayibor ([WCS0025](#)).

295 [Q14](#).

296 [Q2](#), [Q11](#).

297 [Q12](#).

298 Ravi Nayer ([WCS0016](#)).

137. Supporters of legal assistance have also argued that it would benefit the Home Office by enabling claims to be completed more comprehensively and thus processed more efficiently.<sup>299</sup> Mr Forde told us:

[ ... ] if the claims had been compiled by compensation lawyers through legal aid the Home Office task of dealing with them and having the documentation, not having to ask the supplementary questions and possibly not retraumatising victims, would be much quicker. If they had a good firm of solicitors saying, “That is the file. Everything is paginated. You have the NI records, the tax records, the employment records, it is all there for you and this is our claim” I think things would speed up dramatically. I see real advantages now in legal support.<sup>300</sup>

138. Witnesses suggested several models through which legal assistance could be provided to claimants: they pointed to precedents including the Criminal Injuries Compensation Authority, the Lambeth Children’s Homes Redress Scheme, the Diffuse Mesothelioma Payment Scheme and the Manchester City Football Club Survivors’ Scheme.<sup>301</sup> The nine law firms and solicitors who were signatories to the letter sent to the Home Secretary in August 2020 suggested two options for providing legal support to Windrush compensation claimants:

- The current legal aid cover set out under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 should be extended to work done under the Windrush Compensation Scheme and means testing should be waived;
- The Home Office should establish an approved legal panel, with a separate funding scheme which provides payment to solicitors and advisers to assist claimants.<sup>302</sup>

Ms McKenzie also suggested that organisations which are providing pro bono services to claimants, including lawyers, law centres and community advocacy groups, should receive greater support and funding to continue this work.<sup>303</sup>

**139. There are strong arguments for facilitating access to legal advice for people who wish to seek help with their claim. Having access to funded legal representation may help more people to feel confident accessing and engaging with the scheme. It would also facilitate a greater number of comprehensive, well-ordered claims which can be processed more efficiently by caseworkers.**

**140. *We do not believe that the limited service provided by We Are Digital is sufficient to obviate the need for specialist legal advice. We therefore urge the Home Office to introduce new arrangements to ensure that everyone who wishes to access legal assistance with their claim is able to do so. The Home Office should consider the following options as part of its review:***

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299 Ravi Nayer ([WCS0016](#)).

300 [Q62](#).

301 Windrush Action ([WCS0009](#)); Hudgell Solicitors ([WCS0012](#)); Leigh Day ([WCS0013](#)); Ravi Nayer ([WCS0016](#)); Garden Court Chambers ([WCS0019](#)); Duncan Lewis ([WCS0020](#)).

302 Duncan Lewis Solicitors ([WCS0020](#)).

303 Jacqueline McKenzie ([WCS0033](#)).

- *Extending the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to include work done under the Windrush Compensation Scheme and waiving means testing for this work;*
- *Establishing an approved panel of legal firms and professionals, with a funding scheme to provide payment for their services to claimants;*
- *Agreeing a tariff payment for legal costs to be reimbursed to claimants. The payment should reflect the level of support the claimant required, for example whether they requested a review;*
- *Establishing and maintaining a dedicated fund for organisations to provide free legal assistance to claimants.*

## 5 Offers of compensation

None of us are asking for anything extraordinary, we are just asking for what we're owed.<sup>304</sup>

141. In this chapter, we will examine the burden of evidential proof required for claims. We will then look in greater detail at concerns about how compensation is determined across several categories of claim. We also consider the Home Office's capacity to reduce or decline to make an award on the grounds of mitigation and criminality.

### Evidential requirements

142. In its response to the public consultation the Government set out that claimants would be required to explain and provide evidence to demonstrate each of their losses, "particularly where the losses claimed are a significant financial amount. This includes losses which may have occurred some time ago".<sup>305</sup> The Government acknowledged that some evidence would not be available and stated that "we will take a fair and balanced approach".<sup>306</sup> However, despite this commitment, concerns about the evidential requirements of the scheme and the impact of this on claimants have persisted since it was launched.<sup>307</sup>

143. The Home Office has made changes to the standard of proof it requires. When the scheme opened, claims against most categories of loss were decided on "a balance of probability", meaning decision makers "must be satisfied that it is more likely than not that the claimant meets the relevant criteria".<sup>308</sup> However some categories of claim, such as the actual award<sup>309</sup> for loss of access to employment, were subject to a higher standard of proof.<sup>310</sup> For these losses, previous versions of the caseworker guidance stated that:

... the claimant must provide clear evidence and [decision makers] must be satisfied so as to be sure that they meet the requirements for these awards. This meant that "[decision makers] must be satisfied *beyond reasonable doubt* before making an award in these cases."<sup>311</sup>

Following criticism that this higher standard of proof was akin to the criminal standard, the Home Office amended the scheme in October 2020 so that the full scheme now

304 Mr Williams ([WCS0021](#)).

305 Home Office, [Windrush Compensation: Response to Consultation](#), p38, para 4.43.

306 Home Office, [Windrush Compensation: Response to Consultation](#), p38, para 4.43.

307 The Guardian, ['Windrush 'compensation' risks adding serious insult to serious injury'](#), 8 April 2019.

308 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme, Version 6.0, 16 December 2020](#), p85. This version of the caseworker guidance is no longer available online.

309 Where an individual cannot evidence their losses in line with the requirements for an award for their actual losses, caseworkers can instead offer a general award. A general award for loss of access to employment is limited to a maximum of £1,147 per month. When the Scheme opened, the general award could only compensate individuals for a period of loss up to 12 months. Following changes made to the Scheme in December 2020, a general award can compensate individuals for the full period of loss.

310 The following categories of loss were subject to the higher standard of proof: Actual award for loss of earnings; Reimbursement of private medical fees incurred outside or within the UK; Reimbursement of international student fees; Reimbursement of direct financial losses caused by loss of access to banking.

311 Our emphasis. Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme, Version 4.0, 5 March 2020](#), p80. This version of the caseworker guidance is no longer available online.

operates “on a balance of probability”.<sup>312</sup> In oral evidence, Mr Forde told us “this scheme was always designed to operate on a balance of probabilities. The criminal standard should never have been any part of this scheme”.<sup>313</sup>

144. Despite the changes made to the standard of proof in October 2020, evidence we have received continues to express concern about the level of evidence required in support of claims, including how requests for further information are communicated, and concerns about repeated requests for the same information or for information which has already been provided. Some of the examples provided to us relate to categories of claim which have always and continue to be assessed “on a balance of probability”, including a request for the dates of each funeral an individual was unable to attend due to being unable to demonstrate their lawful status,<sup>314</sup> a request for a receipt for £19.20 paid for a biometric card, evidence of which should be accessible on the Home Office case information database,<sup>315</sup> and a request for a letter from a bank showing that an individual had been denied access to banking for an account they had tried to open in the early 2000s.<sup>316</sup>

145. Witnesses emphasised that the requirements for individuals to evidence historic losses and to provide documentation in support of each element of their claim are difficult to meet.<sup>317</sup> We heard directly from claimants who have had parts of their claim declined or reduced on the basis of evidence which is inaccessible.<sup>318</sup> Anthony Williams told us he was unable to register with his local health centre in 2014 because the receptionist asked for further identification when they noticed the place of birth on his driving licence was Jamaica.<sup>319</sup> There is no requirement for GP practices to ask for proof of identity, address or immigration status from patients wishing to register, and a practice cannot refuse a patient because they do not have proof of address or immigration status.<sup>320</sup> Mr Williams explained that:

when the Home Office spoke to the medical centre and the medical centre told them that their procedures are letter, photo ID, they took it as gospel and said to me I had access to the NHS. But, I didn’t because the receptionist noticed Jamaica on my driving licence and then asked me for further ID. But the Home Office does not believe me. They took the side of the medical centre, so I was refused payment. And the worse thing about that, in that period, I think it was 2015, I had dental issues and I could not find a dentist that would take me on. I actually lost most of my teeth.<sup>321</sup>

146. Witnesses told us that the Home Office needs to be more understanding of the difficulties people face in evidencing each of their losses and to place more trust in claimants. In oral evidence, Wendy Williams explained “I said in my [March 2020]

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312 [Letter from the Permanent Secretary following up on his appearance before the Committee](#), 2 September 2020; [Letter from the Permanent Secretary on the Windrush Compensation Scheme](#), 11 November 2020.

313 [Q37](#).

314 Leigh Day ([WCS0013](#)).

315 [Q20](#) (Holly Stow).

316 [Q2](#) (Jacqueline McKenzie).

317 See for example United Legal Access ([WCS0007](#)), Leigh Day ([WCS0013](#)), Garden Court Chambers ([WCS0019](#)), Duncan Lewis ([WCS0020](#)), Mr Williams ([WCS0021](#)), Mr Tobierre and Ms Tobierre ([WCS0022](#)), Dominic Akers-Paul et al ([WCS0025](#)), North Kensington Law Centre ([WCS0032](#)).

318 See Mr Williams ([WCS0021](#)), Mr Tobierre and Ms Tobierre ([WCS0022](#)), Dominic Akers-Paul et al ([WCS0025](#)).

319 Mr Williams ([WCS0021](#)).

320 Gov.uk, [NHS entitlements: migrant health guide](#), GP services, (accessed 25 May 2021).

321 Mr Williams ([WCS0021](#)).

report that of course it is going to be difficult for members of the Windrush generation to demonstrate some of the elements of loss that they are claiming, and the Department should recognise that. I recognise this is public money, but this is public money that is being used to recompense people who have suffered a loss”.<sup>322</sup> Mr Forde told us:

It struck me at the very beginning [ ... ] that the Home Office would have to be very light touch on documentation. The reason for that is very simple. [ ... ] when a lot of people suffered their misfortunes, there was not a scheme. To give you a simple example, if I was driving my father to meet immigration bail every two weeks, that was costing me time possibly away from work and petrol and wear and tear on my car. There is absolutely no reason, if I was doing that in 2014 or 2015, for me to keep the receipts because there was not the scheme. In that sort of instance, I was advising the Home Office it would need to take a lot on trust and maybe do a lot of legwork itself.<sup>323</sup>

147. Several submissions said they considered the Home Office to be lacking in empathy when dealing with claimants;<sup>324</sup> the Home Secretary wrote on 29 March that “we are currently conducting a review of all forms, guidance and training for the scheme”.<sup>325</sup> Written evidence from the Child Migrants Trust<sup>326</sup> said requests for information “need to be sensitively considered, especially where there is strong evidence that they [claimants] may lack key information or [the information] may no longer exist. The language and concepts that are used in every medium of communication should reflect the lessons that have been learned and not become a further source of distress or anger”.<sup>327</sup> Mr Nayer wrote that “getting the balance right often requires redress scheme administrators to give applicants the benefit of the doubt in borderline issues. Never more is this the case than for claims where the cause of the harm is historic and concealed”.<sup>328</sup>

148. There are also concerns that some of the evidential requirements demonstrate a lack of understanding of the eligible cohort. Ms McKenzie wrote that it may be particularly difficult for claimants to evidence their loss of earnings:

Many, due to discrimination in employment, worked in informal economies or for employers who we now know did not submit their national insurance and taxation to HMRC. Further, several people worked on a self-employed basis for exceptionally low wages and did not report to HMRC. These were not necessarily tax avoiders as their earnings would have meant that many would not have paid any tax but more to do with an ignorance of the requirement to report even exceptionally low income.<sup>329</sup>

149. The Deputy Director of the Windrush Compensation Scheme told the Public Accounts Committee on 7 June 2021 that “Caseworkers absolutely should consider things

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322 [Q108](#).

323 [Q34](#).

324 Anonymous ([WCS0001](#)), UNISON ([WCS0005](#)), United Legal Access ([WCS0007](#)), Leigh Day ([WCS0013](#)), Alexandra Ankrah ([WCS0027](#)).

325 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

326 The [Child Migrants Trust](#) administers [redress scheme for former British child migrants](#), who were separated from their families and sent overseas in child migration programmes up until 1970.

327 [Child Migrants Trust](#) ([WCS0024](#)).

328 Ravi Nayer ([WCS0016](#)).

329 Jacqueline McKenzie ([WCS0033](#)).



holistically and look at all the evidence in the round”;<sup>330</sup> the caseworker guidance in operation at that time similarly stated “You should take a holistic view of the claim where there is a lack of supporting evidence and decide the claim on a balance of probability”.<sup>331</sup> However, in written evidence Mr Nayer noted the complexity of applying this standard of proof: “it is a fine balance to strike, requiring the caseworker to decide whether a ‘*fact in issue more probably occurred than not*’”.<sup>332</sup>

150. During its investigation of the scheme, the NAO considered how the removal of the higher standard of proof in October 2020 was implemented. It found that, whilst the Department had made caseworkers aware of the change and had updated its guidance, no further advice was provided to experienced caseworkers about what evidence might now be deemed acceptable that was not previously. The Department told the NAO that caseworkers understood the change because other categories already operated on the lower standard of proof; however, it was “unable to provide examples of what the changes [to the standard of proof] meant in practice for any of the affected categories”.<sup>333</sup>

151. On 21 July 2021, the Home Office published revised guidance for caseworkers which includes additional guidance on how caseworkers should approach a claim.<sup>334</sup> The revised guidance recognises that providing detailed evidence may be “challenging for claimants” and advises that claimants should not be expected to provide “detailed documentary evidence” to support each aspect of their claim.<sup>335</sup> It also further defines ‘the balance of probabilities’ to mean a caseworker is “more than 50% sure” that a loss or impact occurred. Caseworkers are instructed to “take a holistic view of the claim and use all the information and evidence” available, including direct documentary<sup>336</sup> evidence and circumstantial information.<sup>337</sup>

152. The revised guidance also sets out more information about when and how caseworkers should contact a claimant for further information.<sup>338</sup> Should a caseworker decide to proceed with a request for further information, the guidance states that they should first check whether the claimant has already been asked to provide this information. They should then plan their request and ensure they explain the reason for the request clearly to

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330 [Q43](#).

331 Home Office, Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme, Version 6.0, 16 December 2020, p85. This version of the caseworker guidance is no longer available online.

332 Ravi Nayer ([WCS0016](#)); The House of Lords’ explanation on what the civil burden of proof requires, in the case: *In re B (Children) (FC)* [2008] UKHL 35, at para 13, cited by Ravi Nayer ([WCS0016](#)).

333 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, para 4.11.

334 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021.

335 Home Office, Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme, Version 7.0, 21 July 2021, p36. This version of the caseworker guidance is no longer available online and has been superseded by Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021.

336 The guidance states that documentary evidence “is factual and corroborates what a claimant has told us - it may be from Home Office records or official correspondence, for example from employers or a local authority”.

337 The guidance states that circumstantial evidence “won’t categorically prove something but may indirectly support what a claimant has said - it may include statements from a claimant and/or others, or it might be documentation that proves aspects of a claim but not all, for example records from HMRC which might tell you that an individual stopped being employed but doesn’t tell you why”; Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021, p36.

338 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021, p37.



the claimant. The guidance states that “Claimants should not be asked multiple times for information or evidence they say they do not have” and advises caseworkers to consider whether they can proceed without the information.<sup>339</sup>

153. In November 2021, the Home Office published its Ethical Decision-Making Model: “a tool to help Home Office staff when making decisions involving difficult ethical issues”.<sup>340</sup> Wendy Williams recommended that the Department develop an ethical decision-making model, built on the Civil Service Code and principles of fairness, rigour, and humanity, and with a focus on getting the decision right first time.<sup>341</sup> The model encourages critical thinking and prompts staff to consider the potential impact of their proposed decisions. If staff have concerns about a proposed decision which they cannot resolve using current rules and guidance, they are advised to discuss the case with colleagues or a team leader. If they feel the issue is not resolved satisfactorily, they are advised that they can escalate the case further.<sup>342</sup>

**154. We agree with Mr Forde that the higher standard of proof had no place in this scheme: its inclusion has damaged trust significantly and demonstrates a serious lack of understanding by the Home Office as to what caused the Windrush scandal in the first place. We are deeply concerned that, despite warnings from Wendy Williams and its then independent adviser, the Home Office has persisted in placing an undue burden on claimants to provide documentary evidence of the losses they suffered. This indicates a continued failure by the Department to learn the lessons from the Windrush scandal. It also reinforces our recommendation that the Windrush Compensation Scheme should be considered as part of Wendy Williams’ review of the Home Office’s progress on her recommendations (see paragraph 23).**

**155. We strongly welcome the removal of the higher standard of proof from the scheme and the revised guidance for caseworkers issued in July 2021. However, we are extremely disappointed that it has taken the Home Office so long to respond to longstanding concerns about how the standard of proof should be applied and how requests for further information from claimants are to be handled.**

*156. We are not yet convinced that the Home Office has done enough to embed a light touch approach to evidence: for example, we note that the revised caseworker guidance provides no detail as to what the changes made to the standard of proof in October 2020 mean in practice. We urge Ministers and senior officials to examine a sample of individual cases to understand how the ‘on the balance of probabilities’ standard of proof is being applied and to establish what further training and guidance is needed to ensure a fair and empathetic approach to the use of evidence. While it is encouraging that the Home Office has launched the new Ethical Decision-making Model, in its response to this report the Department must clarify how it intends to embed and monitor the performance of the new model within the compensation team. The Department should provide regular updates to this Committee on issues raised by decision-makers and how these are being resolved.*

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339 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021, p37.

340 Home Office, [‘The Ethical Decision-Making Model’](#), 11 November 2021.

341 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p146.

342 Home Office, [‘The Ethical Decision-Making Model’](#), 11 November 2021.

157. *Given the concerns about the Department's understanding of the eligible cohort and the difficulties with obtaining documentary evidence, in the interest of transparency we further recommend that the Home Office urgently publishes its equalities impact assessment for the Windrush Compensation Scheme.*

## How offers of compensation are determined

158. There are thirteen categories of claim and compensation is determined using a combination of tariffs and set awards. For some categories, compensation for actual losses can be awarded where evidence is sufficient. Guidance for caseworkers<sup>343</sup> sets out how compensation should be determined and includes information on calculating awards where necessary, for example, how to calculate an actual award for loss of access to employment.

159. The Home Office does not routinely publish disaggregated data on the number of claims received or paid for each category. Figure 10 of the NAO's investigation into the compensation scheme provides disaggregated data on the number of claims received to the end of March 2021.<sup>344</sup> A letter from the Minister for Future Borders and Immigration provides disaggregated data on payments made up to the end of March 2021 and the period between 1 April 2021 to 31 July 2021.<sup>345</sup> The table below shows a comparison of these disaggregated data. It demonstrates the disparity between the number of claims received and the number of payments made across each claim category, though we note that the Home Office data excludes offers of compensation which may have been pending acceptance or subject to a review.

**Figure 2: Number of claims within each claim category and the number of payments by claim category as at 31 March 2021<sup>346</sup>**

	Number of claims within each claim category as at 31 March 2021	Number of payments by claim category made up to 31 March 2021 (includes both interim and final payments)
Immigration and legal fees	1,020	116
Detention, deportation and removal	320	45
Employment	1,096	126
Child benefit/tax credits	173	14
Benefits	617	34
Housing	564	40
Health	470	22

343 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 7.0, 21 July 2021.

344 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p 30.

345 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

346 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p 30; [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

	Number of claims within each claim category as at 31 March 2021	Number of payments by claim category made up to 31 March 2021 (includes both interim and final payments)
Banking	398	45
Education	249	11
Homelessness	442	28
Impact on life	1,962	514
Discretionary	1,095	72
Driving licence	285	17

## Notes

- (1) Interim payments do not include preliminary payments. These are separate payments.
- (2) Interim awards are offered where aspects of a claim can be concluded more quickly than others
- (3) Payment is made when an offer is accepted by the claimant. This table therefore excludes any offers of awards which may have been pending acceptance or which may have been subject to review.

160. In this section we will consider how the Home Office calculates compensation claims for impact on life, loss of access to employment, immigration and legal fees, and homelessness. We will also examine how the discretionary category operates and will consider how compensation for individuals who were unable to return to the UK is determined.

## Impact on life

161. Compensation for impact on life was the most frequent category of claim as at the end of March 2021, with 1,962 claims made under this category.<sup>347</sup> The purpose of this category is to provide compensation for non-financial impacts that were suffered by claimants due to being unable to evidence their lawful status.<sup>348</sup> The guidance for caseworkers advises that such impacts can include:

- inconvenience:
  - hardship lasting no more than a few days, for example, one-off cancellation of appointments, short-term deprivation of money, small financial losses or losses of opportunity or delays that have no material impact
- injury to feelings:
  - anxiety, distress, and reputational damage, worry, annoyance and similar emotional impacts

347 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p 30.

348 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p82.

- traumatic or highly upsetting experiences
- embarrassment or humiliation
- deterioration of physical and/or mental health:
  - experience of pain or illness due to either a new condition or exacerbation of an existing condition
- family separation:
  - inability to meet with close family members outside of the UK
  - breakdown of the family unit
- inability to attend significant family occasions:
  - weddings and funerals only
- inability to work because of deterioration in their physical or mental health
- inability to return to the UK for example, after a holiday abroad or a short period of time spent outside the UK<sup>349</sup>

162. Awards under this category are determined using a tariff. Initially, there were six levels within the tariff ranging from a Level 1 award of £250 up to a Level 6 award of £10,000+. The amount of compensation available through the initial tariff was criticised for being too low.<sup>350</sup> Mr Forde told us he had advised the Home Office that, where distress and anxiety was prolonged, the tariff payment should be multiplied accordingly.<sup>351</sup>

163. In December 2020, the tariff was reduced from six levels to five “by merging levels 3 and 4 in order to make the process less complex”.<sup>352</sup> The compensation awards were increased substantially. A Level 1 award increased from £250 to £10,000, and the top level award (now Level 5) increased from £10,000 to £100,000. There remains scope for higher awards in ‘exceptional circumstances’.<sup>353</sup>

164. We received evidence which welcomed the increase in compensation available for impact on life;<sup>354</sup> however, some witnesses questioned how the new tariff was determined and some also suggested that the increase did not go far enough.<sup>355</sup> Mr Nayer wrote that it is “impossible for claimants to truly believe that what they are being paid at the end of their claim is fair” without an explanation from the Home Office as to why it considers the new tariff to be “grounded in fairness”.<sup>356</sup> It was also suggested to us that that the

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349 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p82.

350 See for example [Q1](#) (Jacqueline McKenzie), United Legal Access ([WCS0007](#)), Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)).

351 [Q48](#).

352 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

353 Gov.uk, ‘[Windrush Compensation Scheme factsheet – December 2020](#)’, (accessed 28 June 2021).

354 See for example Gertrude Ngozi Chinegwundoh ([WCS0008](#)), Leigh Day ([WCS0013](#)), Ravi Nayer ([WCS0016](#)), Garden Court Chambers ([WCS0019](#)).

355 Ravi Nayer ([WCS0016](#)).

356 Ravi Nayer ([WCS0031](#)).

revised tariff is low when compared to Judicial College Guidelines for psychiatric injury.<sup>357</sup> However, in oral evidence Mr Forde had explained that the compensation available for impact on life:

compensates for distress and anxiety, which is not a claim known to the law. In law you need a diagnosed psychological or psychiatric injury, but because the politicians talked about distress and anxiety, which is more low level, we designed the scheme to include that.<sup>358</sup>

165. Whilst the changes to this category of claim may have addressed concerns that the original tariff was too low, there are also concerns about how the level of compensation offered to individuals is determined and whether caseworkers are adequately equipped to make decisions on this category of claim.<sup>359</sup> Mr Nayer wrote:

If anything, with more significant amounts of compensation now available the pressure on caseworkers to get the assessment right also increases. Simply channelling more notional funding into the tariff system is not going to make a caseworker any more capable of making what is a highly specialist decision about an applicant's health, reviewed only through a description of how the applicant considers they have suffered on the claim form, completed without (in most cases) legal representation.<sup>360</sup>

166. The guidance for caseworkers contains a description of each level of award and caseworkers are instructed to “determine the amount of award payable in accordance with the tariff”.<sup>361</sup> However, Windrush Lives, a campaign organisation which includes a network of claimants, described the level descriptions as “vague and subjective”<sup>362</sup> and wrote that “The Home Office has repeatedly ignored suggestions that it furnish examples of cases and types of harm, matching them to the tariff levels under which they would fall”.<sup>363</sup>

167. Some of the claimants we spoke to felt that the level of compensation they were offered did not account for the duration or severity of impacts they suffered.<sup>364</sup> Alexandra Ankrah, who formerly worked in the Home Office's Windrush Policy Team, wrote that there was a resistance within the Department to making payments at the highest level of award for this category.<sup>365</sup> As the Home Office does not routinely provide data on the number of impact on life awards made at each level, it is difficult to assess whether this is the case.

168. In written evidence, the North Kensington Law Centre wrote of one case in which a father and son were separated for over thirty years but the Home Office only found this to have had “some” impact.<sup>366</sup> Ms McKenzie, who has supported over 200 claimants, reported

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357 Ravi Nayer ([WCS0016](#)), Duncan Lewis ([WCS0020](#)).

358 [Q48](#).

359 Windrush Lives ([WCS0023](#)).

360 Ravi Nayer ([WCS0016](#)).

361 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p84.

362 Windrush Lives ([WCS0023](#)).

363 Windrush Lives ([WCS0023](#)).

364 See for example Christian Hayibor ([WCS0025](#)), Anthony Williams ([WCS0021](#)), Glenda Caesar ([WCS0025](#)).

365 Alexandra Ankrah ([WCS0027](#)).

366 North Kensington Law Centre ([WCS0014](#)).

that “From the feedback they [the Home Office] provide on the narratives supplied by claimants, it seems clear that scant regard is given to the material placed before them let alone being able to interpret that material”.<sup>367</sup>

169. There are concerns that access to the higher levels of award may be limited due to the evidence claimants are required to provide. Caseworkers are advised that for “lower-level impacts, such as inconvenience or distress, evidence may just be circumstantial [ ... ] You may take at face value a statement that the claimant has experienced inconvenience or distress when the facts of the claim are considered in the round”,<sup>368</sup> whilst “Impacts that have a greater effect on a claimant should be accompanied by directly relevant information and evidence where possible. A claim for impacts on mental or physical health should be supported by medical evidence of the detriment suffered and an opinion that this was caused by, or exacerbated by, uncertainty over lawful status”.<sup>369</sup>

170. We heard concerns, including from Mr Forde,<sup>370</sup> that requesting medical evidence from the time the impact was suffered is problematic because the affected cohort are less likely to have sought help for their mental and physical health. Ms Chinegwundoh wrote to us that “In the Caribbean and African communities, there is a stigma associated with mental health and it remains a taboo subject, especially amongst the older generation - and men in general”.<sup>371</sup>

171. Whilst there is scope for the Home Office to seek expert medical advice in the absence of satisfactory medical evidence, there are concerns about this process and the extent to which it is being utilised.<sup>372</sup> The guidance advises caseworkers that “Where you have cause to consider that the claimant’s supporting medical evidence is unsatisfactory or inconclusive you should consult with your team leader to decide whether to seek the opinion of a suitably qualified practitioner. This will be especially relevant for a claim which is being considered for a tariff payment at level 3 or higher”.<sup>373</sup> We wrote to the Home Secretary to establish how many times such advice has been sought, and she replied:

[ ... ] To date, we have not needed to commission such a report and have instead been able to assess an individual’s claim using evidence provided by them, or that we have been able to obtain for them, such as GP records or details of prescriptions. We have, however, where necessary made payments to obtain medical records. Caseworkers also [ ... ] take a holistic view, and draw upon their understanding of an individual’s experience as far as possible, reducing the need to ask for or commission specific medical evidence.<sup>374</sup>

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367 Jacqueline McKenzie ([WCS0033](#)).

368 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p83.

369 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p83.

370 [Q48](#).

371 Gertrude Ngozi Chinegwundoh ([WCS0008](#)); see also Alexandra Ankrah ([WCS0027](#)).

372 See for example Hudgell Solicitors ([WCS0012](#)); Wilson Solicitors LLP ([WCS0015](#)); Ravi Nayer ([WCS0016](#)); Duncan Lewis ([WCS0020](#)); Alexandra Ankrah ([WCS0027](#)).

373 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p85.

374 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.



172. We asked how the guidance and training for caseworkers equips them to determine whether to award a higher level of compensation for impact on life, the descriptions of which include references to medical impacts, without expert medical advice.<sup>375</sup> The Home Secretary wrote:

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.<sup>376</sup>

173. The Home Office does not routinely publish details of the level of awards made, but in November 2020 the BBC reported that, as at the end of August 2020, fewer than five people had been offered the top level of award.<sup>377</sup>

174. In oral evidence, Ms McKenzie told us that access to medical experts is needed to enable individuals to provide evidence for this category of claim:

Most people will only qualify under [impact on life], so it is vital that we get that heading correct and that there is support for expert evidence to support that heading: expert reports, medical reports. I do not know how you adduce evidence of impact on life without it because the Home Office seems to be disregarding anything people say. Somebody says, "I was petrified of being detained, and my grandchildren were outside the enforcement centre waiting for me, and they were crying" and if that is not good enough, then you definitely need a psychologist or a psychiatrist to do it."<sup>378</sup>

She further suggested that claimants should be able to access funding for "private therapy for ongoing trauma" if required, because of the length of waiting lists for NHS support.<sup>379</sup> A petition calling on the Government to improve the compensation scheme by putting funding into services for claimants, including support for their emotional well-being, has received over 100,000 signatures.<sup>380</sup>

**175. We welcome the increase in compensation that is available for impact on life; however, we have not yet seen evidence that the new tariff has addressed the underlying concerns about how this category of claim operates. There is a lack of clarity as to how the level of compensation for impact on life is decided and how impacts are considered at each tariff level. We are also concerned that the determination of these awards is heavily dependent upon evidence which is difficult for claimants to obtain, such as the use of medical evidence to determine the severity of impacts suffered.**

375 [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 4 March 2021.

376 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

377 BBC News, '[Windrush: At least nine victims died before getting compensation](#)', 2 November 2020.

378 [Q6](#).

379 Jacqueline McKenzie ([WCS0033](#)).

380 38 Degrees, '[Fix the Windrush compensation scheme](#)', (accessed 30 June 2021).



176. *The Home Office must provide greater clarity about how impact on life awards are determined and should issue clear guidance on how different types of impact and levels of harm correspond to each tariff level.*

177. *Given that the Home Office has yet to use its capacity to seek expert medical advice to support determinations on these complex awards, it should be open to claimants to be able to request expert medical advice if they are seeking a higher level award and in particular as part of the review process if they dispute their level of award.*

### **Loss of access to employment**

178. Almost half of the applications the Home Office received to the end of March 2021 have made a claim for loss of access to employment, making it the second most common category of claim.<sup>381</sup> There are two types of compensation award: an actual award, which compensates individuals for their actual losses if they meet the conditions for an award and can demonstrate what their earnings had or would have been,<sup>382</sup> and a general award, which uses a set tariff to calculate compensation in cases where an individual meets the conditions for an award but cannot demonstrate what their earnings had or would have been.<sup>383</sup> The general award tariff is £1,147 per month, “which is equivalent to the national living wage when the Scheme was launched [£8.21 per hour]”,<sup>384</sup> and is adjusted on a pro-rata basis for part time working.<sup>385</sup> The Home Office has made several changes affecting this category of claim since the scheme became operational:<sup>386</sup>

- In March 2020, the Home Office amended the mitigation policy<sup>387</sup> “so a wider range of circumstances and actions taken by individuals to resolve their immigration status, or mitigate losses or impacts, are considered when deciding awards” (see paragraph 222);<sup>388</sup>
- In October 2020, the higher standard of proof which had applied to actual awards was removed from the Scheme<sup>389</sup> and actual awards have been made “on the balance of probabilities” since December 2020;<sup>390</sup>
- In December 2020, the twelve-month cap<sup>391</sup> was removed from the general award which means claimants who meet the conditions for this award can now be compensated for the full period of loss;<sup>392</sup>

381 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p30.

382 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex D, D2-D8.

383 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex D, D9-D14.

384 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

385 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex D, D14.

386 All changes apply retrospectively.

387 See paragraphs 221–230 of this report for further consideration of the mitigation policy.

388 [Letter to the Chair from the Minister for Future Borders and Immigration on changes to the Windrush Compensation Scheme](#), 6 February 2020.

389 [Letter from the Permanent Secretary on the Windrush Compensation Scheme](#), 11 November 2020.

390 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021

391 When the Scheme opened, recipients of a general award could only receive compensation for 12 month’s loss of earnings regardless of how long the period of loss was.

392 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

- Also in December 2020, references to the requirement for claimants to demonstrate the steps they took to resolve their lawful status were removed from the loss of access to employment sections of both the Scheme Rules<sup>393</sup> and the guidance for caseworkers.<sup>394</sup>

179. Evidence we have received suggests that it is particularly difficult for people to “supply sufficient evidence of their earnings”<sup>395</sup> in order to meet the requirements of an actual award.<sup>396</sup> North Kensington Law Centre wrote that they had seen requests for documents that date back over 30 years. Losses that occurred more recently are not necessarily easier for claimants to evidence. Mr Tobierre, who received a general award for loss of access to employment he faced in 2017, explained “It was difficult to find evidence of job offers. Like the one piece of paper they want for my job offer, without that one piece of paper I lose thousands”.<sup>397</sup> The Home Secretary told us “we do all we can” to help claimants obtain evidence of their earnings and that “numerous” actual awards have been made following information gathered by caseworkers, such as through data sharing agreements with HMRC and by contacting claimants’ previous employers.<sup>398</sup> The Home Secretary also acknowledged that “We are, however, limited by the data retained by these departments or organisations”.<sup>399</sup>

180. Whilst the changes to the scheme in December 2020 mean caseworkers can now calculate a general award based on the whole period of loss instead of a maximum of twelve months, the maximum tariff remains £1,147 per month. Windrush Lives wrote “While [removing the 12-month limit] is a step in the right direction, the monthly amount remains capped at a sum less than half the median monthly income reported by the ONS in 2020”.<sup>400</sup> Both the ONS and the Organisation for Economic Co-operation and Development (OECD) define low pay as less than two-thirds of median hourly earnings,<sup>401</sup> and the Government is committed to a target of the National Living Wage reaching two-thirds of median earnings by 2024.<sup>402</sup> In 2021, two-thirds median hourly earnings equates to £9.40 per hour.<sup>403</sup>

181. In oral evidence, Mr Forde said he “reluctantly went along with [the general award] because I was concerned about documentation, but I felt that most claims should be capable of being calculated on an entirely bespoke and individual basis” using data on a claimant’s employment history held by other government departments such as HMRC.<sup>404</sup> He also told us “The Office for National Statistics—these are what we use—produce

393 Home Office, [Windrush Compensation Scheme Rules](#), Version 6.0, 16 December 2020, Annex D, D2.

394 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 6.0, 16 December 2020, p46. This version of the caseworker guidance is no longer available online.

395 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p50.

396 See for example [Hudgell Solicitors \(WCS0012\)](#), [Leigh Day \(WCS0013\)](#), [Mr Williams \(WCS0021\)](#), [Jacqueline McKenzie \(WCS0033\)](#).

397 [Mr Tobierre and Ms Tobierre \(WCS0022\)](#).

398 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

399 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

400 Office for National Statistics, ‘[Employee earnings in the UK:2020](#)’, 3 November 2020, Office for National Statistics.; cited by [Windrush Lives \(WCS0023\)](#).

401 Office for National Statistics, ‘[Low and high pay in the UK: 2020](#)’, 3 November 2020.

402 Gov.uk, ‘[Millions get pay rise from today as National Living Wage and National Minimum Wage increase comes into effect](#)’, 1 April 2021.

403 Office for National Statistics, ‘[Low and high pay in the UK: 2021](#)’, 26 October 2021.

404 [Q57](#).

earnings for every type of job and in all regions, so it is not difficult to say that if you were a plumber the average plumber in South Shields earned X; that is where you lived and you did not work for four years so you get four times X.”<sup>405</sup> Ms McKenzie suggested that earnings could be calculated using an individual’s National Insurance records, and that such assessments could be completed by an actuary.<sup>406</sup>

182. We wrote to the Home Secretary to ask what consideration has been given to the use of HMRC data or ONS statistics to calculate awards in instances where individuals could not document their earnings.<sup>407</sup> She responded, “Given the variation in employment types and sectors amongst individuals making claims, [the tariff] ensures the Scheme remains fair in the absence of evidence of earnings.”<sup>408</sup> We asked the Home Secretary to explain further her response that limiting everyone in these circumstances to the national living wage “ensures the scheme remains fair”,<sup>409</sup> and she replied:

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.<sup>410</sup>

183. A further condition of both the general and the actual award requires claimants to show that the reason their employment was terminated or that they were unable to access employment was because of their inability to demonstrate their lawful status.<sup>411</sup> Witnesses explained that demonstrating this causal link can be difficult. Mr Forde noted the difficulty for claimants in producing a letter from a previous employer which explicitly connects their loss of employment to their inability to evidence their lawful status, and said that caseworkers must take a sensitive approach if such letters state a different reason for dismissal:

Checking with the employer, I understand it but I am also aware that some employers saw this as an opportunity to get rid of longstanding staff without having to pay redundancy payments. You can argue that that was racially motivated. They are not going to write that letter. They are writing letters back saying, “It wasn’t entirely immigration status. It was a bit of capability. It was a bit of insubordination”. Of course, if you have a certain mentality you will say, “Well, that is not the entire reason why you lost your job. Therefore, you are not entitled to the full loss of earnings claim”. It is those sorts of decisions that I am beginning to hear about.<sup>412</sup>

[ ... ]

If there is that kind of break in the chain of causation, then you have to ask yourself why anybody would then not work at all and not claim benefits unless their status played a role, because most of us, even if sacked,

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405 [Q59](#).

406 [Q26](#).

407 [Letter to the Home Secretary on changes to the Windrush Compensation Scheme in December 2020](#), 26 January 2021.

408 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

409 [Letter to the Home Secretary on the Windrush Compensation Scheme](#), 4 March 2021.

410 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

411 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex D, D2 (b) and D9 (b).

412 [Q47](#).

particularly if we had dependants, would try to find another job. I feel if you had sensitive questioning you would find it had had some kind of an impact, maybe not with that employer but down the line.<sup>413</sup>

184. We also heard that it can be difficult to show that an employment opportunity was lost due to an inability to demonstrate lawful status. Ms Stow told us:

If you are being knocked down, you are not going to keep e-mails saying no. Nine times out of 10 employers who do not want to employ you will not inform you, you just simply do not get a call back.

It is that impossible evidence.<sup>414</sup>

185. We wanted to assess whether the change to the standard of proof has addressed any of the concerns raised about this category of claim during our inquiry. The Home Secretary advised us in February 2021 that the Department was conducting an exercise to compare the numbers of general and actual awards before and after the removal of the higher standard of proof.<sup>415</sup> We received the outcome of this exercise in September 2021. Prior to 14 December 2020, the Home Office had made 63 payments for loss of access to employment of which 46 were actual (73% awards) and 17 were general. 62 of the 63 awards have been reassessed in line with the new rules and the outcomes break down as follows:

**Figure 3: Outcomes of the reassessment of 62 claims for loss of access to employment following changes to the scheme on 14 December 2020<sup>416</sup>**

<b>Reassessment outcomes</b>	<b>Number of claims affected</b>
General to actual	6
Remained general but award increased	6
Remained general, no change	4
Actual to general	16
Remained actual but award increased	3
Remained actual, no change	27

The Minister for Future Borders and Immigration noted that the most frequent change in award was from actual to general, increasing the overall percentage of general awards from 27% to 42%. He explained that:

Under the new rules—actual awards are calculated using an individual’s actual salary which they missed out on whereas general awards are calculated using a monthly tariff. General awards are given where we are unable to obtain evidence of the salary they missed out on, or where the salary was lower than the tariff.

413 [Q54](#).

414 [Q21](#)

415 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

416 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021. On 14 December 2020 the loss of access to employment category was amended so it would operate fully on the balance of probabilities.

We wanted to ensure individuals who were [able] to provide evidence of their salary did not receive awards which were smaller than an equivalent general award would be, where their salary was lower than the general tariff.<sup>417</sup>

186. Concerns about this category of loss are not limited to evidential requirements; witnesses also said that the way caseworkers are instructed to calculate compensation is flawed.<sup>418</sup> Mr Nayer explained that the award for past loss “is currently calculated by multiplying the number of months comprising the period of loss by the net pay of an applicant at a [fixed] date .... This is a rudimentary approach to a technical exercise. It makes no provision for the fact that during employment an applicant may have benefited from pension contributions; increased salaries due to promotions; higher tax-free brackets; overtime and interest”.<sup>419</sup>

187. Witnesses also expressed particular concern about the scope for providing compensation for future loss of earnings and loss of pension. Under the scheme rules, the period of loss for which individuals can receive compensation ends on the earlier of:

- (a) three months from the date on which the primary claimant or the deceased received a document from the Home Office proving their lawful status in the United Kingdom;
- (b) the date on which the primary claimant or the deceased commenced employment;
- (c) where an estate of a primary claimant applies for an award under this Annex, the date on which the deceased died; or
- (d) where a primary claimant is not resident in the United Kingdom, the date on which they ceased to be resident in the United Kingdom.<sup>420</sup>

There are concerns that the three month limit on compensation beyond confirmation of status does not take account of the difficulties some claimants may face in returning to work: for example, if their inability to demonstrate their lawful status meant they were out of work for an extended period of time or if they are approaching pensionable age.<sup>421</sup> Mr Forde told us he was concerned about this due to the age of the affected cohort (79% of claimants to the end of January 2021 were aged 51 and over<sup>422</sup>): consequently he said that, in some cases, compensation for loss of access to employment should be paid up to the age of retirement with actuarial input used to calculate a lump sum for loss of pension.<sup>423</sup>

188. There are concerns about whether the scheme is adequately addressing loss of pension, which we were told was a “readily identifiable loss in many Windrush generation claims”.<sup>424</sup> There are issues with compensation both for loss of State Pension and for

417 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

418 [Q5](#) (Holly Stow), UNISON ([WCS0005](#)), Trades Union Congress ([WCS0006](#)), Gertrude Ngozi Chingwundoh ([WCS0008](#)), Ravi Nayer ([WCS0016](#)), Windrush Justice Clinic ([WCS0017](#)).

419 Ravi Nayer ([WCS0016](#)).

420 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex D, D11.

421 See for example Leigh Day ([WCS0013](#)), Ravi Nayer ([WCS0016](#)).

422 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

423 [Q59](#).

424 [Garden Court Chambers](#) ([WCS0019](#)).

loss of occupational or private pensions. When the scheme launched in April 2019, the Government said it would ensure that people who had lost access to employment or benefits would have their National Insurance position corrected to ensure that the period of loss does not impact their State Pension entitlement.<sup>425</sup> However, in February 2021, the Home Secretary informed us that “Arrangements for this area, building on experiences from the compensation scheme so far, are being finalised across Government”.<sup>426</sup> It is not clear from published sources what further progress has been made.

189. Whilst the Government has committed to ensuring that members of the Windrush generation receive the State Pension to which they are entitled, impacts or losses relating to occupational pension schemes or other pension-related matters or entitlements are explicitly excluded from the scheme.<sup>427</sup> Mr Tobierre, who drew down his pension to provide income whilst he was wrongly denied access to employment, said this exclusion meant the caseworker was unable to compensate him for this substantial loss despite acknowledging that it had occurred.<sup>428</sup> Many of the submissions we received suggested that the scheme should provide compensation for loss of pension contributions and savings.<sup>429</sup>

190. We wrote to the Home Secretary to ask why loss of occupational or private pension is excluded from the scheme.<sup>430</sup> She replied:

The scheme does not compensate for occupational and private pensions because of the variable and complex nature of the impacts on, and future performance of these which would require an assessment by actuaries and would considerably increase the length of time taken to resolve claims.

However, through their employment awards, individuals will recuperate the contributions they would have made into an occupational pension scheme at the time.<sup>431</sup>

**191. As the Home Secretary has acknowledged, it is not possible for some claimants to document what their earnings were or would have been when they lost access to employment because this information is not always accessible or may never have been recorded. We are concerned that too many people in these circumstances are receiving a general award which is limited to the minimum level of earnings as measured by the 2019 National Living Wage. Furthermore, we consider that the limitations on compensation for loss of future earnings and loss of pension are very problematic given that many claimants are approaching pensionable age.**

***192. We recognise that it might be possible to reflect better the losses incurred by some individuals by looking at pay levels in the sector they worked in, regardless of the direct evidence of the wages they can provide. The Government should consider this as an***

425 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 4.19.

426 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

427 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 3.15 (d).

428 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

429 See UNISON ([WCS0005](#)), Trades Union Congress ([WCS0006](#)), Ms Gertrude Ngozi Chinegwundoh ([WCS0008](#)), Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), North Kensington Law Centre ([WCS0014](#), [WCS0032](#)) Wilson Solicitors ([WCS0015](#)), Ravi Nayer ([WCS0016](#)), Windrush Justice Clinic ([WCS0017](#)), Garden Court Chambers ([WCS0019](#)), Duncan Lewis Solicitors ([WCS0020](#)), (Mr Tobierre and Ms Tobierre ([WCS0022](#)), Windrush Lives ([WCS0023](#)), [WCS0032](#), Jacqueline McKenzie ([WCS0033](#)).

430 [Letter to the Home Secretary on changes to the Windrush Compensation Scheme in December 2020](#), 26 January 2021.

431 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.



*option in individual cases. However, given that this will not apply for many individuals, and given the risk of further delays, we recommend increasing the general award to at least next year's National Living Wage of £9.50 per hour given that most people have still not yet received their payments and the 2019 minimum wage is an arbitrary figure to choose. Based on an average full-time working week of 37 hours, this would raise the general award to £18,278 per year, or £1,523.16 per month. Going forwards, the tariff used should be based on at least the National Living Wage being used when the payment is made. Loss of pension and loss of future earnings should be brought within scope of the scheme: a set award or general tariff would ensure all eligible individuals are compensated regardless of available evidence. The complexity of this issue should not preclude the Home Office from implementing a solution: at the very least, the Department should consider the legal minimum employer pension contribution, which is currently three per cent.*

193. *Across all categories of claim, caseworkers must consider holistically the situation the claimant was in: where an eligible claimant was unable to demonstrate their right to live, work and access services in the UK, compensation should not be declined solely on the basis that they are unable to document a causal link between their inability to evidence their lawful status and the loss they have suffered.*

## Compensation for immigration fees and legal costs

### Immigration fees

194. Immigration fees and legal costs were the fourth most common category of claim as at the end of March 2021.<sup>432</sup> The Home Office will consider reimbursing fees paid for unsuccessful immigration applications but this is limited to seven types of application.<sup>433</sup> Fees for successful applications (“that gave the claimant what they applied for”<sup>434</sup>) are not generally reimbursed but the Home Office may consider reimbursement where:

- The application was made subsequent to an unsuccessful application which was wrongly refused (provided this was one of the seven types eligible reimbursement of fees),
- The application gave the claimant something other than what they applied for (such as where the application resulted in a grant of leave, but not what the claimant applied for and was actually entitled to) and where that grant did not resolve the claimant’s long-term lawful status.<sup>435</sup>

195. The Home Office has been criticised for limiting compensation to categories which are only applicable to people who already have an immigration status. In an article for *Free Movement* Nick Nason, a lawyer at Edgewater Legal, noted that where individuals

432 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p30.

433 British citizenship, confirmation of British nationality status, certificate of entitlement to a right of abode, indefinite leave to enter, indefinite leave to remain, no time limit, returning visa application.

434 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p39.

435 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p39.

were wrongly informed that they were in the UK unlawfully, they may have pursued other, potentially costly, routes such as private/family life-based applications to secure their status.<sup>436</sup>

196. In the *Windrush Lessons Learned Review*, Ms Williams wrote that “The impacts of the hostile/compliant environment were exacerbated by the lack of access to Legal Aid for those who would otherwise have been able to get advice to demonstrate their legal status [ ... ] This situation was made worse by the Home Office’s caseworkers not being empowered to give applicants advice and support with making applications. The reduction in the number of appeal routes for immigration decisions [ ... ] made it even more vital for individuals to make the right application and get the decision right the first time”.<sup>437</sup> She also noted that “even when applicants had legal advice, their representatives often struggled to identify the right application route”<sup>438</sup> and that “It is widely accepted that immigration and nationality law is very complex”.<sup>439</sup>

**197. The Windrush Lessons Learned Review demonstrates the difficulties the Windrush generation faced when trying to navigate the immigration system. The exclusion of some immigration applications from the Windrush Compensation Scheme unfairly penalises individuals who have incurred considerable losses through making immigration applications in good faith to try and resolve the difficulty they faced with demonstrating their lawful status. Claimants should be entitled to receive compensation for any immigration application they made whilst seeking documentation to prove their lawful status.**

198. The Home Office has also been criticised for refusing to refund fees for successful applications for British citizenship and Indefinite Leave to Remain despite subsequently waiving these fees for certain groups when it established the Windrush Scheme.<sup>440</sup> Ms McKenzie wrote “There is no reason why this group of people should not be entitled to reclaim their fees. Many in this group have spent around £2000 in legal and Home Office fees to be able to obtain evidence of a status they already held”.<sup>441</sup> She suggested that fees paid by members of the Windrush generation for citizenship and Indefinite Leave to Remain should be refunded, but that “It is reasonable for there to be a cap on how far back a period this should cover”.<sup>442</sup>

**199. The Home Office should review its decision not to refund any claimants for past fees paid for successful citizenship and Indefinite Leave to Remain.**

### Legal costs

200. If a claimant receives a fees award for an unsuccessful immigration application, the Home Office will consider also making an award for legal costs associated with that application. Compensation for legal costs is limited to the actual amount paid or £500, whichever is the lesser. Claimants can receive compensation for legal costs for

436 Free Movement, ‘[Six reasons why the Windrush compensation scheme fails victims](#)’, (accessed 30 June 2021).

437 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p102

438 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p98.

439 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p147.

440 Free Movement, ‘[Six reasons why the Windrush compensation scheme fails victims](#)’, (accessed 30 June 2021).

441 Jacqueline McKenzie ([WCS0033](#)).

442 Jacqueline McKenzie ([WCS0033](#)).

each unsuccessful immigration application for which a refund on fees is made.<sup>443</sup> For example, if a claimant incurred legal costs in respect of three unsuccessful immigration applications (provided they are of the seven application types eligible for a fees award and the conditions of the award are met), they could receive up to £1,500 for these costs.

201. The fairness of the £500 per application limit has been questioned. In written evidence, Windrush Lives described it as “absurd,” noting that some claimants had incurred legal fees “into the thousands”.<sup>444</sup> A close relative of a claimant wrote that their relative had been threatened with deportation and faced multiple court hearings; they had spent over £10,000 on legal fees and the compensation scheme was unlikely to reimburse this loss.<sup>445</sup> The Home Office’s impact assessment for the scheme notes that the average amount claimed for legal costs (based on claims triaged by September 2019) was £1,941,<sup>446</sup> nearly four times the compensation limit per unsuccessful immigration application.

202. The justification for the cap, that “obtaining legal advice is not necessary in making an immigration application”,<sup>447</sup> has also been challenged. Ms Ankrah wrote “if the Home Office could not resolve or correctly determine the immigration status of people from the Windrush Generation, then a lawyer was necessary”.<sup>448</sup> The justification also appears to contradict Home Office press statements issued in February and March 2018, which stated “Those who have resided in the UK for an extended period but feel they may not have the correct documentation confirming their leave to remain *should take legal advice* and submit the appropriate application with correct documentation so we can progress the case”.<sup>449</sup>

**203. It is unfair that those who accessed legal advice should find themselves unable to receive compensation for their actual costs. The justification for limiting awards fails to recognise the particular difficulties the Windrush generation faced upon trying to confirm their lawful status with the Home Office. The reason people had to resort to legal advice was because the Home Office was not treating them fairly or according to their rights and because the Home Office was imposing a huge injustice upon them. It is a double injustice for them then to be told there is no compensation for the attempts they were forced to make to defend their rights. *The scheme rules should be amended so as to remove the £500 per application limit on compensation for past legal fees that were needed and paid because of the Windrush scandal.***

### Homelessness

204. Whilst homelessness is included as a category of claim, it is not clear whether people who lived with family and friends are eligible for this compensation. The scheme rules define “homeless” as “a primary claimant or the deceased did not have access to accommodation in which it was reasonable for them to reside”<sup>450</sup> and “the Home Office will consider that a primary claimant or the deceased did not have access to accommodation in which it

443 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p41.

444 Windrush Lives ([WCS0023](#)).

445 Anonymous ([WCS0001](#)).

446 Home Office, ‘[Windrush Compensation Policy](#)’, 29 January 2020, p9.

447 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 4.15.

448 Alexandra Ankrah ([WCS0027](#)).

449 Our emphasis; Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p41.

450 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex G, G1.

was reasonable for them to reside if they were: rough sleeping; staying temporarily in a hostel, night shelter or bed and breakfast; staying temporarily in other accommodation with poor conditions that adversely impacted their health; or squatting”.<sup>451</sup>

205. Leigh Day wrote that one of their clients, who slept on the sofas of family and friends for eight years after being unable to secure local authority or private housing due to their inability to sufficiently evidence their right to live in the UK, had their compensation claim for homelessness refused.<sup>452</sup> To the end of March 2021 the Department had received 442 claims for homelessness<sup>453</sup> but had made 28 payments.<sup>454</sup>

206. Duncan Lewis Solicitors and Windrush Lives also challenged the tariff for homelessness<sup>455</sup> (£250 per month up to a maximum of £25,000),<sup>456</sup> with Duncan Lewis suggesting that compensation of £130-£150 per day could be ordered in a comparable civil claim.<sup>457</sup> In its response to the consultation, the Government said payments under this category would be monthly and “in line with the amounts the Local Government Ombudsman [LGO] recommends in guidance”.<sup>458</sup>

207. The LGO *Guidance on Remedies* states that “Where a complainant has been deprived of suitable accommodation during what would inevitably have been a stressful period in their life, our recommendation for financial redress is likely to be in the range of £150 to £350 a month. But we may recommend a higher monthly amount in cases where the injustice is exceptional or particularly severe”.<sup>459</sup> It also includes five remedy examples relating to homelessness, with recommended payments ranging from £250<sup>460</sup> to £6,000.<sup>461</sup> One remedy example refers to an individual who, following a council’s decision to discontinue interim accommodation, had to spend four weeks sleeping on friends’ sofas before finding a place in a hostel.<sup>462</sup>

**208. The Home Office appears to be applying an unduly narrow definition of homelessness which fails to consider the circumstances in which some members of the Windrush generation found themselves. The Home Office should clarify that awards under the category of claim for homelessness are available to individuals who lived with family and friends whilst they were unable to access housing or because their financial situation meant they lost their home.**

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451 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex G, G3.

452 Leigh Day ([WCS0013](#)).

453 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p30.

454 To the end of March 2021, the Home Office had made 3 interim and 25 full payments for homelessness; see [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

455 Duncan Lewis ([WCS0020](#)); Windrush Lives ([WCS0023](#)).

456 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, Annex G, G7.

457 Duncan Lewis ([WCS0020](#)).

458 Home Office, [Windrush Compensation: Response to Consultation](#), CP 81, April 2019, para 4.26.

459 Local Government & Social Care Ombudsman, ‘[Guidance on Remedies](#)’, (accessed 30 June 2021), p34.

460 This payment was recommended to “acknowledge the lost opportunity” in a case in which a council did not initially accept an individual’s application for homelessness, causing an eight-week delay in the individual’s ability to bid on properties. Local Government & Social Care Ombudsman, ‘[Guidance on Remedies](#)’, (accessed 30 June 2021), p100.

461 This recommended payment included £5,000 for the value of an individual’s possessions disposed of by a council when it erroneously said that its duty to accommodate that individual and therefore store their belongings had ended. A further payment of £1,000 was recommended to acknowledge the distress and inconvenience caused. Local Government & Social Care Ombudsman, ‘[Guidance on Remedies](#)’, (accessed 30 June 2021), p99.

462 Local Government & Social Care Ombudsman, ‘[Guidance on Remedies](#)’, (accessed 30 June 2021), p101.

### Discretionary awards

209. Where a claimant suffered loss of a financial nature which is not covered under the other categories of claim,<sup>463</sup> they can apply for a discretionary award (provided the loss is not excluded from the scheme). In oral evidence, Mr Forde explained “I have identified 14 potential areas of compensation [ . . . ] the 14th category was entirely discretionary, so that was effectively everything we had not thought of”.<sup>464</sup> However, the guidance for caseworkers states “Awards for losses should be adequately covered under the other categories and so awards under this category should be very rare”.<sup>465</sup> While data on discretionary payments is not routinely published, as at the end of July 2021, 86 discretionary payments had been made.<sup>466</sup> This would appear to indicate that the Home Office is indeed only making rare payments under this category. It is therefore surprising that the National Audit Office should have reported that, as at the end of March 2021, 1,095 claims for a discretionary award had been received, making it the third most common category of claim.<sup>467</sup>

210. Although this category also operates “on a balance of probabilities”, it appears that claimants have been expected to provide more comprehensive evidence than is the case within other categories of claim. Guidance for claimants previously advised that “A discretionary award normally requires compelling evidence of loss, a clear causal link to difficulties demonstrating lawful status and compelling evidence that you did all that you could to resolve status difficulties. An award under this category will not normally be made unless these stringent evidential requirements can be met”.<sup>468</sup> Revised guidance for primary claimants issued in July and October 2021 does not contain this wording.<sup>469</sup> Caseworkers are advised that “the impact, loss or detriment experienced must be significant”,<sup>470</sup> and that:

If the claimant cannot demonstrate some or all of the requirements you may consider making an award if you are satisfied that the circumstances presented are wholly exceptional and to make an award would be appropriate.

Wholly exceptional circumstances may arise where they are one-off in character, are rare and unlikely to be repeated.

Claimants must still satisfy the criteria for a discretionary award.<sup>471</sup>

463 The loss must be distinct from those covered by the other categories of claim. A claimant cannot, for example, apply for a discretionary payment to try and increase an award covered by another category of claim.

464 [Q34](#).

465 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p87.

466 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

467 National Audit Office, [Investigation into the Windrush Compensation Scheme](#), HC 65, 19 May 2021, Figure 10, p30.

468 ‘The primary claimant guidance which contained this wording is no longer available online; however, this wording remains in the guidance for close family member claims and for claims on behalf of an estate. See for example Home Office, [Windrush Compensation Scheme Claim Form Guidance: Close Family Member Claims](#), October 2021, p20. New guidance for close family members and representatives of an estate is expected, see [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 20 July 2021.

469 Home Office, [Windrush Compensation Scheme Claim Form Guidance: Primary Claimant](#), July 2021. This version of the primary claimant guidance is no longer available online and has been superseded by Home Office, [Windrush Compensation Scheme Claim Form Guidance: Primary Claimant](#), October 2021.

470 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p87.

471 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p88.



211. Whilst guidance for caseworkers sets out what claimants are required to demonstrate,<sup>472</sup> examples of the types of evidence that might be considered are not provided. Duncan Lewis Solicitors wrote “the level of evidence needed has been expressed somewhat vaguely. [ ... ] Such lack of precision carries the risk the Departmental staff will misinterpret the WCS Rules, or interpret them very narrowly, to the detriment of individual claimants”.<sup>473</sup>

212. The Home Office has not published examples of the types of loss it is prepared to compensate through a discretionary award. However, the Windrush Justice Clinic provided us with an example of instances where discretionary awards claimed by close family members have been refused. They wrote that where a close family member has financially supported a primary claimant, for example by paying bills or buying necessary items for them whilst they were unable to work, caseworkers have considered this a “private arrangement” and therefore not within scope of the scheme.<sup>474</sup>

**213. We are concerned that the number of claims submitted under the discretionary category may indicate a disparity between the Home Office’s intention for this provision and claimants’ understanding of the purpose of this aspect of the Scheme. *The Home Office should clarify the basis upon which it drafted the rules and guidance on the discretionary award.***

**214. We are further concerned by the lack of clarity for claimants as to the circumstances in which they can apply for a discretionary award. It is also not clear why claimants appear to have been required in practice to meet different evidential requirements for this category of claim. *The Home Office should be more transparent about the types of loss it is prepared to compensate through a discretionary award and should set out what types of claim under this category have previously been accepted. The Home Office should also provide assurances as to how consistency in decision-making is maintained both within this category and across the compensation scheme.***

**215. The high number of claims made for a discretionary award suggests that there are types of loss not yet accounted for within the scheme. It may also indicate a continuing lack of clarity about the headings under which certain types of claim should be made. It is important therefore that the Home Office closely monitors this category of claim. *We call on the Home Office to conduct an analysis of all discretionary claims received to date to establish the types of loss people are claiming for. The Department must provide its findings to this Committee within two months of publication of this report and explain how it will address them.***

### **Compensation for individuals who were unable to return to the UK**

216. Whilst compensation is available for detention, deportation and removal, there is no specific award to compensate individuals for losses resulting from their inability to return to the UK. Caseworkers are advised “There is no claim under the scheme for any losses incurred as result of a claimant’s inability to return to the UK. Impacts experienced because of this inability may attract an award under other parts of the scheme such as

472 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p88.

473 Duncan Lewis ([WCS0020](#)).

474 Windrush Justice Clinic ([WCS0017](#)).



impact on life”.<sup>475</sup> However, apart from sections of the caseworker guidance<sup>476</sup> covering the impact on life and reimbursement of private medical fees incurred overseas, no other category of claim refers to claimants who were unable to return to the UK.

217. Windrush Action noted that the scheme does not distinguish between a claimant who may have been unable to return to the UK for a short period of time and a claimant who may have been unable to return for several decades. They wrote of one of their members who was prevented from returning to the UK for over 20 years and noted that, under the scheme rules, claimants receive an award of £1,000 whether they are prevented from returning for one month or many years.<sup>477</sup>

218. Ms Chingwundoh wrote “this group of claimants seems to have been overlooked” and questioned how, for example, an individual forced to live overseas for several decades would be compensated for loss of access to employment within the UK.<sup>478</sup> Ms Chingwundoh and Windrush Action suggested that there should be a distinct category of claim for individuals who were unable to return to the UK with awards to reflect the amount of time the claimant was affected.<sup>479</sup>

***219. We call on the Home Office to explain how awards across all categories of claim are determined for individuals who were unable to return to the UK, including those unable to return for multiple decades, and to introduce a tariff payment specifically to compensate individuals who were unable to return to the UK.***

## Grounds to reduce or decline an award

220. As at the end of September 2021, 143 (approximately 4.7% of all claims received) have been rejected on eligibility grounds and 413 claims (approximately 13.7% of all claims received) have received a zero award under entitlement.<sup>480</sup> Grounds to reduce or decline an

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475 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p47.

476 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, pp72, 82.

477 Windrush Action ([WCS0009](#)).

478 Gertrude Ngozi Chingwundoh ([WCS0008](#)).

479 Gertrude Ngozi Chingwundoh, ([WCS0008](#)), Windrush Action ([WCS0009](#)).

480 This means that the claimant meets the eligibility criteria for the Scheme but they have not been awarded any compensation. For examples of where this has occurred, see [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021. Home Office, [‘Windrush Compensation Scheme data: October 2021’](#), 28 October 2021, WCS\_06.

award are set out in Part 4 of the scheme rules<sup>481</sup> and include clauses on double recovery,<sup>482</sup> fraud,<sup>483</sup> mitigation of loss<sup>484</sup> and criminality.<sup>485</sup> We heard particular concerns about the rules on mitigation and criminality, which are considered below.

### **Mitigation of loss**

221. The Home Office may reduce or decline an award where it considers that:

- a) a primary claimant or (in the case of an estate) the deceased has failed to take reasonable steps to resolve their lawful status;
- (b) a primary claimant, deceased or close family member has otherwise failed to take reasonable steps to mitigate losses or impacts;
- (c) a primary claimant, deceased or close family member has taken unreasonable steps that have resulted in increased losses; or
- (d) there has been wilful default or lack of co-operation on the part of a primary claimant or deceased when attempting to resolve their lawful status.<sup>486</sup>

This means that when individuals apply for compensation they must provide evidence of the actions they took to confirm their lawful status with the Home Office when they began to experience difficulties, and how they tried to reduce the impacts or losses they are claiming for. Decisions to reduce or decline an award must be referred to a senior officer for approval.<sup>487</sup>

222. The Home Office has made changes to its mitigation policy since the scheme became operational. In March 2020, the policy was amended to enable caseworkers to take account of a wider range of circumstances and actions taken by individuals to resolve their lawful status when deciding awards. This change meant that claimants were no longer expected to show that they had taken immediate steps to contact the Home Office following difficulties arising when they were unable to demonstrate their lawful status. Instead, caseworkers can consider actions a claimant took at any time.<sup>488</sup>

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481 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, paras 4.1–4.9.

482 A claimant cannot receive compensation for an impact or loss where it is considered that they have already been compensated for this impact or loss either under or outside of the Windrush Compensation Scheme. For example, if a claimant has received an urgent and exceptional payment, the Home Office can recover the value of this payment from a subsequent offer of compensation.

483 An award can be declined where the Home Office is satisfied that a claim or part of a claim has been made fraudulently.

484 The Home Office may reduce or decline an award where it considers that a claimant failed to take reasonable steps to resolve their lawful status or that they did not cooperate when attempting to resolve their lawful status. It can also reduce or decline an award where it considers that a claimant failed to take reasonable steps to minimise their losses or impacts, or where it considers that a claimant took unreasonable steps which increased their losses.

485 The Home Office may reduce or decline an award to a claimant who has been convicted of an offence which resulted in a prison sentence of 4 years or more and where their offending was of such nature that it makes it inappropriate to make an award in whole or in part.

486 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 4.4.

487 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p34.

488 [Letter from the Home Secretary on Windrush update](#), 28 April 2020.

223. Despite this change, evidence we received during our inquiry raised concerns about the mitigation policy.<sup>489</sup> Windrush Action and Leigh Day wrote that the requirement for claimants to demonstrate the steps they took to resolve their lawful status does not account for the fear individuals may have had in approaching the Home Office, such as a fear of being deported.<sup>490</sup> Guidance for caseworkers acknowledges fear as a “sufficient justification” for not contacting the Department, but the example provided appears to set a high bar for acceptance: “for instance, if a claimant can show that their actions were strongly influenced by direct knowledge of a family member who had contacted the Home Office and then been detained or removed from the UK”.<sup>491</sup>

224. Mr Nayer compared the requirements on claimants to the Windrush Compensation Scheme with requirements on claimants in civil proceedings. He suggested that by requiring claimants to submit evidence that they have mitigated their loss, the Home Office may have reversed the burden of proof that exists in civil proceedings, in which it is for a defendant to prove a claimant has failed to mitigate their loss. He went on to explain that:

The main point is the courts do not generally apply a demanding standard to the claimant on the basis that the claimant is a victim of a wrong. As with many aspects of the Windrush Compensation Scheme, in the absence of guidance the question of whether an applicant has or has not acted reasonably requires a subjective assessment by the caseworker.<sup>492</sup>

225. In oral evidence we heard that the Home Office went against its then independent adviser’s advice when it included rules on mitigation within the Scheme. Mr Forde told us his objection to these provisions was that “[mitigation] is not a concept that is known to non-lawyers”: further, he said, the Windrush generation would not have had the expectation that they should take ‘reasonable steps’ explained to them at the time their lawful status was challenged by the Government.<sup>493</sup>

226. As part of the changes to the scheme announced on 14 December 2020, the Home Office removed the 12-month cap on general awards for loss of access to employment which had applied to those who had not taken steps to resolve their status: “This means employment awards are no longer capped because of a lack of mitigation action.”<sup>494</sup>

227. We wrote to the Home Secretary on 26 January 2021 and asked how long it takes caseworkers to establish that an individual has sought to mitigate their losses and in how many instances an award had been reduced or declined on the basis of the mitigation rules. She advised us that the changes in December 2020 removed the 12-month cap on general awards for loss of access to employment, which applied to those who had not taken steps to resolve their status. She added that “These changes are being applied retrospectively [ ... ] Once this work is complete, no compensation awards will have been reduced or declined on the basis of failure to mitigate loss. However, we think it is right to retain the discretion

489 See for example Gertrude Ngozi Chinegwundoh ([WCS0008](#)), Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)), Ravi Nayer ([WCS0016](#)), Garden Court Chambers ([WCS0019](#)), North Kensington Law Centre ([WCS0032](#)).

490 Windrush Action ([WCS0009](#)), Leigh Day ([WCS0013](#)).

491 Home Office, [Windrush Compensation Scheme: Guidance for decision makers considering cases under the Windrush Compensation Scheme](#), Version 8.0, 27 October 2021, p33.

492 Ravi Nayer ([WCS0016](#)).

493 [Q45](#).

494 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

to reduce or decline to make compensation awards to individuals, particularly where it is apparent there is wilful default or a lack of cooperation, or where an individual's actions increased their losses".<sup>495</sup>

228. We sought more recently to ascertain how many compensation awards across the scheme have been reduced or declined on the basis of mitigation of loss as set out in Part 4 of the scheme rules.<sup>496</sup> The Minister for Future Borders and Immigration reiterated that "employment awards are no longer capped because of a lack of mitigation action [ ... ] so no compensation awards will be reduced or declined because of a failure to mitigate loss".<sup>497</sup>

**229. Whilst we welcome the changes that have been made to the mitigation policy over time, we have been unable to get clarity about how this policy is working in practice now. We agree with Mr Forde that it was not appropriate to include rules on mitigation of loss in this compensation scheme and we are disappointed that the Government chose to reject his advice. The more rigid requirements placed on individuals by the initial mitigation policy have damaged trust and confidence in the Home Office's willingness to understand the impact of its policies on the members of the Windrush generation.**

**230. While the Home Office has said that awards for loss of access to employment are no longer capped because of a lack of mitigation action, we have been unable to clarify how the mitigation requirements are being applied to other claim categories, as appears to be allowed within the scheme rules. For each claim category, the Home Office should provide us with data for the number of times a decision to reduce or decline an award has been referred for approval because of the mitigation requirements and the number of times an award has been reduced or declined on this basis subsequently. *We believe that rules on mitigation of loss are not appropriate for a compensation scheme of this nature: the Home Office should lift any remaining mitigation requirements.***

## **Criminality**

231. Mr Forde also told us that the Home Office declined to follow his advice on criminality. The criminality rules state that the Home Office may reduce or decline an award to a claimant who has been convicted of an offence which resulted in a prison sentence of 4 years or more and where their offending was "of such nature that it makes it inappropriate to make an award in whole or in part".<sup>498</sup> Mr Forde said the inclusion of criminality within the scheme "criminalised a cohort who have been wrongly criminalised throughout their existence here [ ... and] sent entirely the wrong message".<sup>499</sup> Furthermore, he told us the policy is "irrational", adding "I have no doubt that if anybody has their claim diminished by criminality a judge would strike that down, and that is the advice I gave as well".<sup>500</sup>

232. Windrush Lives wrote that they perceived the criminality rules as the Home Office "giv[ing] itself a discount on account of matters outside the scheme's purview". They

495 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

496 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 4.4.

497 Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme, 29 September 2021.

498 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 4.5.

499 [Q45](#).

500 [Q45](#).

pointed out that following a prison sentence an offence is “deemed resolved”; they therefore saw no connection between an earlier offence and any claim made under the scheme.<sup>501</sup> When we wrote to the Home Secretary on this issue in January 2021, she responded that:

In most instances, criminality will not impact on compensation awards. However, we have a duty to manage taxpayers’ money appropriately and consider whether it is appropriate to give this to people whose severe criminal behaviour has negatively impacted the lives of victims and wider society. [ ... ] To date, no awards have been declined or reduced in respect of criminality. This approach for the modification of compensation where an individual has unspent criminal convictions is not unique to the scheme and also exists in the Criminal Injuries Compensation Authority (CICA).<sup>502</sup>

In response to a written question, the Home Secretary advised that “fewer than 10 claimants” have had their impact on life award declined or reduced because of previous criminality, and that such decisions are signed off by Ministers.<sup>503</sup>

***233. Given the concerns raised by the independent adviser on the design of the Windrush Compensation Scheme, as well as the risks of costly legal challenges, we recommend that future decisions on whether to reduce or decline an award because of previous criminality should be independently reviewed. This should be done by referring the decision to the independent review panel we recommend should be established in paragraph 273 of this Report.***

## Non-financial remedies

234. Some of the evidence we received questioned whether the Windrush Compensation Scheme delivers restorative justice to those affected.<sup>504</sup> Ms Ankrah wrote that the Home Office’s ability to right the wrongs is “hampered” because it accepts no legal liability for the losses it is compensating.<sup>505</sup> Under the scheme rules, people who receive a compensation award should receive an apology from the Home Office, “acknowledging what has happened [ ... ] and acknowledging any role that the Home Office may have played in the impact or loss suffered”.<sup>506</sup> However, Ms Ankrah wrote “The handling of apologies has the potential to be unfair, has been unsatisfactory and felt begrudging and pedestrian”.<sup>507</sup> ***The Home Office must ensure that apologies to those affected by the Windrush scandal are issued at the earliest opportunity and that the Department’s role in causing any impacts or losses suffered is fully acknowledged.***

235. Ms McKenzie suggested that further consideration must be given to historical injustices faced by the Windrush generation. She wrote that “It is impossible to right the wrongs experienced by the Windrush generation without going beyond the limitations of their experiences under the hostile environment. There is a need to assess the impact of the historical injustices with a view to providing both restorative and reparative justice.

501 Windrush Lives ([WCS0023](#)).

502 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021

503 PQ 63654 [[on Windrush Compensation Scheme: Offenders](#)], 26 October 2021.

504 See for example Amnesty International UK ([WCS0003](#)), Ravi Nayer ([WCS0016](#)).

505 Alexandra Ankrah ([WCS0027](#)).

506 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 3.1.

507 Alexandra Ankrah ([WCS0027](#)).

*This work has not yet begun*".<sup>508</sup> She also suggested that "There is still work to be done on remedying the legislation which has unfairly removed or denied status to people without warning or consultation and been misapplied in some cases".<sup>509</sup>

236. In the *Windrush Lessons Learned Review*, Ms Williams recommended that the Home Office should run a programme of reconciliation events with the Windrush generation. She wrote that the events "would enable people who have been affected to articulate the impact of the scandal on their lives, in the presence of trained facilitators and/or specialist services and senior Home Office staff and ministers so that they can listen and reflect on their stories". She also said that, where necessary, "the department would agree to work with other departments to identify follow-up support, in addition to financial compensation".<sup>510</sup> In response, the Home Office said it was working with the Windrush Cross-Government Working Group to design and develop the events, "with an implementation time period for early 2021".<sup>511</sup>

237. We asked the Home Office how many events with the Windrush generation have taken place with a specific focus on reconciliation and in the presence of trained facilitators or specialist services, and senior Home Office staff and ministers. The Home Secretary responded:

Since 2018, we have held approximately 200 community engagement and outreach events across the country. These community events include one-to-one surgeries to help people apply for documentation to the Windrush Scheme and public community engagement events to raise awareness of the Windrush Schemes.<sup>512</sup>

We have not been able to clarify how many of the 200 events focused on reconciliation and how many were focused solely on access to the compensation scheme.

***238. The commitment to holding reconciliation events is a particularly important one and must not get lost. In its response to this Report, the Home Office should clarify what progress it has made on implementing a programme of reconciliation events with members of the Windrush generation, including what work has taken place to identify follow-up support in addition to financial compensation.***

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508 Emphasis in the original; Jacqueline McKenzie ([WCS0033](#)).

509 Jacqueline McKenzie ([WCS0033](#)).

510 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p138.

511 HM Government, [The Response to the Windrush Lessons Learned Review: A comprehensive Improvement Plan](#), CP 293, September 2020, paras 41–42.

512 PQ 62616 [[on Immigration: Windrush Generation](#)], 25 October 2021.



## 6 Support in urgent and exceptional circumstances

They were speaking to me throughout the whole duration of me being homeless, living on the street, and still they just kept giving me sporadic phone calls, with no actual offer for help. I tried to apply for the vulnerable persons' fund or the emergency fund and they just kept denying me basically. And that was it. They said until they received a completed compensation form from me, they can't help me.<sup>513</sup>

239. In June 2018, our predecessor Committee concluded that some people were facing destitution through no fault of their own and could not wait for the establishment of the compensation scheme following the consultation process.<sup>514</sup> The Committee urged the Government to “act immediately to set up a hardship fund for those in acute financial difficulty.”<sup>515</sup> The then Home Secretary, Rt Hon Sajid Javid MP, declined to implement this recommendation in his response<sup>516</sup> but subsequently acknowledged on 11 October 2018 that “there may be some urgent and exceptional cases where it would be right to consider whether individual circumstances mean a[n urgent] payment can be made” before the compensation scheme was established.<sup>517</sup> The circumstances in which such payments could be made were set out in a policy statement published in December 2018, since updated in February 2021.<sup>518</sup> Wendy Williams noted that the delay in launching this policy “will have done little to help those who were in desperate need”.<sup>519</sup>

240. In this chapter, we look at the urgent support that was needed by and promised to those suffering the greatest hardship as a result of the Windrush scandal. We will first look at the effectiveness of the Urgent and Exceptional Payment Scheme. We will then consider the support that is available to individuals from the Vulnerable Persons Team.

### The Urgent and Exceptional Payment Scheme

241. The Urgent and Exceptional Payment Scheme opened in December 2018. For a case to be considered under the policy four tests apply, including whether there is a “compelling” reason as to why a claimant cannot wait for the outcome of their compensation claim. Payments made under this policy should normally be less than £5,000.<sup>520</sup> To the end of July 2021, the Home Office has received 191 requests for urgent and exceptional support.<sup>521</sup> Of these, it has approved 61 payments and declined 113.<sup>522</sup> The total value of payments

513 Carl Nwazota ([WCS0025](#)).

514 Home Affairs Committee, Fifth Report of Session 2017–19, [Windrush: the need for a hardship fund](#), HC 1200, 13 June 2018, para 6.

515 Home Affairs Committee, Fifth Report of Session 2017–19, [Windrush: the need for a hardship fund](#), HC 1200, 13 June 2018, para 6.

516 Home Affairs Committee, Eighth Special Report of Session 2017–19, [Windrush: the need for a hardship fund: Government Response to the Committee's Fifth Report of Session 2017–19](#), HC 1558, 14 September 2018.

517 HC Deb, 11 October 2018, [HCWS993](#) [Commons written ministerial statement].

518 Gov.uk, ‘[Windrush scheme: support in urgent and exceptional circumstances](#)’, ‘Policy’, (accessed 30 June 2021)..

519 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p125.

520 Gov.uk, ‘[Windrush scheme: support in urgent and exceptional circumstances](#)’, ‘Policy’, (accessed 30 June 2021).

521 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

522 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

made is £111,977.50.<sup>523</sup> The remaining 17 requests were withdrawn by the individual.<sup>524</sup> A letter from the Home Secretary in April 2020 said that reasons for declining support include “where the individual did not demonstrate that the issues faced were due to an inability to confirm immigration status or was not part of the Windrush cohort; where the Taskforce [now Help Team] was not satisfied that the circumstances were either urgent or exceptional and as such, it was determined that the individual could seek compensation under the Windrush Compensation Scheme”.<sup>525</sup>

242. We sought evidence on how well support in urgent and exceptional circumstances is working for the people who apply. Garden Court Chambers wrote that it found nothing wrong with the policy but considered “the Home Office interpretation of exceptional circumstances” problematic.<sup>526</sup> The Home Office has itself previously acknowledged the “high bar set for ‘exceptional’ circumstances” as a reason for the low number of payments made under the policy.<sup>527</sup>

243. Ms McKenzie described the operation of this policy by the Vulnerable Persons Team as “one of the worst performing areas” of the Windrush schemes.<sup>528</sup> The policy guidance states that the circumstances of a request for support “should support the individual’s life, dignity or ability to return to the UK in an urgent circumstance.”<sup>529</sup> Following a statement on the Windrush Compensation Scheme on 3 April 2019 in the House of Commons, Andy Slaughter MP asked the then Home Secretary to look into the case of his constituent who, having applied for a payment so that they could visit their 95-year-old mother overseas, had their application declined and were told to save up.<sup>530</sup> We received an example of a request for support from an individual who, having left the UK when they were given removal directions, returned through the Windrush Scheme but were destitute. Upon contacting the Vulnerable Persons Team, they were advised to look for a second-hand cooker and second-hand clothing.<sup>531</sup>

244. Claimants are ordinarily expected to have submitted their compensation claim before seeking urgent and exceptional support, but the Home Office acknowledges that there will be circumstances in which an urgent payment can be made prior to receiving a compensation claim.<sup>532</sup> We have received examples of cases where the Vulnerable Persons Team has declined requests for support and instructed individuals to submit a claim for compensation. Carl Nwazota told us that, whilst homeless, his request for support was declined and he was asked to submit a new application for compensation, his previous two applications having been lost.<sup>533</sup> Ms McKenzie provided an example of an instance in which support was declined to an individual who was facing legal proceedings instigated by a local authority due to rent and council tax arrears; these debts built up whilst the

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523 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

524 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

525 [Letter from the Home Secretary on Windrush update](#), 28 April 2020.

526 Garden Court Chambers ([WCS0019](#)).

527 Wendy Williams, [Windrush Lessons Learned Review](#), HC 93, 19 March 2020, p125.

528 Jacqueline McKenzie ([WCS0033](#)).

529 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Policy’, (accessed 30 June 2021).

530 HC Deb, 3 April 2019, [col 1052](#), [Commons Chamber].

531 Jacqueline McKenzie ([WCS0033](#)).

532 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Annex A’, (accessed 30 June 2021).

533 Carl Nwazota ([WCS0025](#)).

individual sought proof of their lawful status. The Vulnerable Persons Team refused a payment to address the arrears and instructed the individual to submit a compensation claim.<sup>534</sup>

245. The ‘support in urgent and exceptional circumstances policy’ states also that “a reasonable degree of evidence will be required”.<sup>535</sup> There are concerns that these requirements are delaying access to support. On 10 March 2020 *The Guardian* reported that one individual, who was facing eviction due to rent arrears, requested support and subsequently became homeless when their application was declined.<sup>536</sup> When we raised this case in oral evidence, the then Second Permanent Secretary said that the application had been declined initially because additional information requested by the Home Office was not provided, but had since been approved.<sup>537</sup>

246. Correspondence from the Home Secretary revealed that, to the end of March 2020, just 23% of requests “contained the necessary evidence” and were concluded within ten working days of receipt.<sup>538</sup> A guide on what information and evidence may be helpful in considering requests was included in updated guidance published on 23 February 2021.<sup>539</sup>

247. Wilson Solicitors also raised concern about delays in responding to requests for support: they said that Emergency Hardship fund applications “By their nature ... are needed quickly yet we have experience of clients not being contacted following submission of an application for months”.<sup>540</sup>

**248. The Urgent and Exceptional Payment Scheme was rightly, albeit belatedly, set up to help those who needed immediate financial assistance, including those facing real hardship. However, in too many cases it has failed to do so and it appears to have operated with the same bureaucratic insensitivities as those which led to the Windrush scandal in the first place. It is completely unacceptable that individuals facing hardship due to Home Office failures should continue to be let down and left destitute by the Department while they wait for compensation payments.**

*249. The Home Office and consecutive Home Secretaries have acknowledged and apologised for the losses faced by the Windrush generation as a result of failings within the Department, yet that acceptance has not translated into quick and adequate compensation, even where individuals are facing urgent or exceptional hardship. In order to rectify this, the Home Office should reduce the bureaucratic burden placed on applicants for urgent and exceptional support, in recognition of the fact that a prohibitively high standard of proof and limited interpretation of ‘urgent’ and ‘exceptional’ hardship will result in delays and rejections for those in desperate situations through no fault of their own. Caseworkers should be directed to take a broader, more sympathetic approach when interpreting whether circumstances are urgent or exceptional, with particular attention paid to those struggling with debts and arrears they have accrued because of their inability to demonstrate their lawful status.*

534 Jacqueline McKenzie ([WCS0033](#)).

535 Gov.uk, ‘[Windrush scheme: support in urgent and exceptional circumstances](#)’, ‘Policy’, (accessed 30 June 2021).

536 The Guardian, ‘[I have been dehumanised](#)’ 10 March 2020.

537 [Q59](#).

538 [Letter from the Home Secretary on Windrush update](#), 28 April 2020.

539 Gov.uk, ‘[Windrush scheme: support in urgent and exceptional circumstances](#)’, ‘Annex B’, (accessed 30 June 2021).

540 Wilson Solicitors LLP ([WCS0015](#)).

**250. *The Department should also raise the standard payment cap of £5,000 to ensure that those who are in urgent need of greater financial support, or those who face multiple simultaneous financial challenges, are provided with adequate emergency funds to alleviate their hardship. It should ensure applicants receive a decision within ten days.***

251. We also received evidence from individuals, or their representatives, who have successfully applied for support under this policy.<sup>541</sup> Mr Tobierre, who applied for support to assist with debts acquired whilst he was wrongly denied access to employment and to help with travel costs for hospital appointments, said he eventually received payment of “exactly the amount of money”<sup>542</sup> required to pay credit card and overdraft debts. Although the payment he received cleared these debts, it did not also cover the cost of travelling to hospital. This meant he had to continue using credit cards and overdrafts whilst waiting for the outcome of his compensation claim.<sup>543</sup>

252. When Mr Tobierre subsequently received his first offer of compensation it was less than the value of his urgent and exceptional payment and there was no mention of this payment in his compensation offer letter. After requesting a review of his compensation offer, Mr Tobierre received a second offer of a higher award; however, this time the value of the urgent and exceptional payment had been deducted in full.<sup>544</sup> Mr Tobierre said he was not aware that this payment could be recovered from his compensation.<sup>545</sup> The Windrush Justice Clinic similarly reported to us that they knew of clients who did not realise such payments could be recovered until they received their offer of compensation.<sup>546</sup>

253. Section 4.1 of the compensation scheme rules states that “the Home Office may reduce or decline to make an award under the scheme in so far as it compensates for or it relates to an impact, loss, damage, detriment or other circumstance that has previously been the subject of compensation or payment under or outside the scheme”.<sup>547</sup> Claimants who receive an exceptional payment are considered to have been compensated outside the scheme under section 4.3(b).<sup>548</sup>

254. We asked the Home Secretary how many exceptional payments had been deducted in full, in part or not recovered from subsequent offers of compensation, and what criteria were used by caseworkers to determine this decision.<sup>549</sup> Whilst we did not receive the data we requested, the Home Secretary responded that urgent and exceptional payments “are effectively an advance on a future compensation award, and in most circumstances will be accounted for as part of any subsequent compensation payment. This position is clearly stated in the Compensation Scheme rules and in the policy on support in urgent and exceptional circumstances”.<sup>550</sup> The urgent and exceptional support policy is however

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541 See for example Leigh Day ([WCS0013](#)), Mr Tobierre and Ms Tobierre ([WCS0022](#)).

542 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

543 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

544 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

545 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

546 Windrush Justice Clinic ([WCS0017](#)).

547 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 4.1.

548 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, para 4.3.

549 [Letter to the Home Secretary on changes to the Windrush Compensation Scheme in December 2020](#), 26 January 2021.

550 [Letter from the Home Secretary on changes to the Windrush Compensation Scheme](#), 16 February 2021.

less definitive, stating that: “Any payments or assistance provided under this policy may be taken into account in any subsequent award made under the Windrush Compensation Scheme.”<sup>551</sup>

**255. In light of the evidence we have received, we reject the Home Secretary’s assertion that it is sufficiently clear to individuals that, in most circumstances, any payment they receive under the urgent and exceptional support policy will be treated as an advance on a future compensation award. *The ‘Windrush scheme: support in urgent and exceptional circumstances’ guidance should be amended immediately to make clear that urgent and exceptional payments can be recovered in full from a subsequent offer of compensation; caseworkers should receive training to ensure that this is also made sufficiently clear in any direct communications with individuals.***

### Other types of support provided by the Vulnerable Persons Team

256. In May 2018, a dedicated Vulnerable Persons Team (VPT) was established “to provide help and advice to individuals where safeguarding and vulnerability issues are identified”.<sup>552</sup> Individuals access the VPT via a referral from the Windrush Help Team and are given a named point of contact.<sup>553</sup> As well as conducting the initial assessments of requests for an urgent and exceptional payment,<sup>554</sup> the team also works with central and local government departments, the NHS, police, local authority housing providers, social services and mental health teams “to find practical solutions to vulnerability issues”.<sup>555</sup> The team may also contact organisations on behalf of an individual, for example their landlord, to resolve issues where possible.<sup>556</sup>

257. To the end of August 2021, the VPT had provided support to 1,938 people, with 103 cases ongoing.<sup>557</sup> This support includes referrals to the Department for Work and Pensions in relation to new claims and the reinstatement of benefits, and advice and support given to individuals on issues relating to housing.<sup>558</sup> In March 2021, the Home Secretary said the Department would in future publish information about the number of people supported by the VPT (and the urgent and exceptional payment scheme) as part of the wider Windrush Compensation Scheme transparency data,<sup>559</sup> but we note that this information has yet to be included in subsequent data releases.<sup>560</sup>

258. We sought evidence on what the VPT does well and how it could provide better support. Leigh Day said that the VPT was unable to assist some of their clients with issues they had experienced following confirmation of their lawful status, such as difficulty with

551 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Policy’, (accessed 22 June 2021).

552 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Background’, (accessed 30 June 2021).

553 Home Office (WCS0018).

554 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Timing and decision-making process’, (accessed 30 June 2021).

555 Gov.uk, [‘Windrush scheme: support in urgent and exceptional circumstances’](#), ‘Background’, (accessed 30 June 2021).

556 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

557 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

558 Gov.uk, [‘Windrush factsheet: March update’](#), (accessed 30 June 2021).

559 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

560 Data on the overall number of people supported by the VPT and the total value of urgent and exceptional payments was included in a Home Office news blog: Gov.uk, [‘FACTSHEET: Windrush Compensation Scheme - August 2021’](#), (accessed 27 September 2021).



an application to Her Majesty's Passport Office and issues with a job centre.<sup>561</sup> They said that the VPT requires "a more holistic, wide-ranging approach to support".<sup>562</sup> Garden Court Chambers was aware of one instance "where the Home Office, instead of making emergency payment, simply responded by saying that the claimant had not demonstrated that he had sought assistance from charities before applying to the VPT".<sup>563</sup>

259. We also received some evidence from individuals with experience of contacting the VPT. One individual said they had applied for urgent and exceptional support but "did not meet their criteria", and that the VPT "failed to call me back when they said they would, and I felt very let down".<sup>564</sup> Grace Nwobodo told us that the team

need to be more sensitive to how they treat people with issues. They are treating vulnerable persons, even the name of the team defines itself. You are treating vulnerable people. Therefore, you should be sensitive, you should be empathetic and considerate in how you respond to people's queries and questions.<sup>565</sup>

260. Evidence from Windrush Lives and the North Kensington Law Centre raised concerns about a lack of assistance provided to an individual who was homeless.<sup>566</sup> The Public Accounts Committee concluded in March 2019 that "Homelessness is an acute issue for those affected requiring urgent action", and that the Home Office "has done little to secure urgent housing for members of the Windrush Generation."<sup>567</sup> In a joint letter to us and to the Public Accounts Committee, the Permanent Secretary reiterated the statutory role of local authorities in meeting urgent housing needs and stated that the best way to tackle homelessness was for the VPT to engage with local authorities and housing providers. He said that this approach was "successful" and had secured accommodation "for over 280 people."<sup>568</sup>

**261. We welcome the creation of a Vulnerable Persons Team to help claimants navigate difficult conversations with government departments and solve their cases. However, we are deeply concerned by reports that the team is failing to treat vulnerable applicants sensitively and, in some cases, further distressing vulnerable individuals through poor customer service and a lack of clarity about what it can achieve.**

***262. We are disappointed that the Home Office has yet to resume routine publication of data relating to the support in urgent and exceptional circumstances policy and the work of the Vulnerable Persons Team. This information must be published regularly. We also recommend that adequate feedback processes are put in place to ensure a good quality of service is provided by the Vulnerable Persons Team. We call on the Home Secretary and the Permanent Secretary to review the operation of the Vulnerable Persons Team, including the guidance they follow and the sensitivity of the support offered. We also call on Wendy Williams to look at the team as part of her review.***

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561 Leigh Day ([WCS0013](#)).

562 Leigh Day ([WCS0013](#)).

563 Garden Court Chambers ([WCS0019](#)).

564 Anonymous ([WCS0001](#)).

565 Grace Nwobodo ([WCS0025](#)).

566 North Kensington Law Centre ([WCS0014](#)), Windrush Lives ([WCS0023](#)).

567 Public Accounts Committee, Eighty-Second Report of Session 2017–19, [Windrush generation and the Home Office](#), HC 1518, 6 March 2019, para 4.

568 [Letter from the Permanent Secretary to the Chair of HASC and the Chair of PAC on Windrush Compensation Scheme](#), 20 October 2020.



## 7 The review process

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When I look at the review process itself, I get worried again because, when you're talking about tier one, tier two and then, after that your MP has to refer the person to the Ombudsman, I get worried about the whole transparency of that process.<sup>569</sup>

263. For both interim and final offers of compensation, claimants may request a review or seek a revised offer. A request for a review must be received by the Home Office within two months of the offer being made; an extension can be granted in the event of reasonable grounds for delay. A claimant may request a review of the following:

- a decision regarding their eligibility;
- a decision to reduce or decline an award; or
- the amount of an award.

Reviews cannot challenge payments made or refused by other government departments. They also cannot challenge a decision on urgent and exceptional payments.<sup>570</sup> The review process consists of a Tier 1 internal review, following which a claimant may or may not decide to request a Tier 2 independent review.

264. Tier 1 reviews are considered by a senior reviewer within the Home Office who was not involved in the original determination of the claim. The reviewer may uphold an offer, reinstate an initial offer that has since been revised or make a new offer. Once notified of the outcome of the Tier 1 Review, individuals have two months to notify the Home Office if they wish to accept the outcome or to proceed to a Tier 2 Review.<sup>571</sup> Tier 2 Reviews are considered outside the Home Office by the Adjudicator's Office.<sup>572</sup> It considers both the initial decisions made regarding the application and the decisions made during the Tier 1 Review. It may uphold the Tier 1 decision, reinstate a previous offer or make a new offer. The Home Office must consider the Adjudicator's recommendations, but it does not have to implement them. Where the Home Office decides not to implement the Adjudicator's recommendation, it must provide written reasons for its decision.<sup>573</sup> If an individual is dissatisfied with the Adjudicator's decision, they can ask their MP to refer their complaint to the Parliamentary and Health Service Ombudsman (PHSO).<sup>574</sup> From Q2 2019 to the end of September 2021:

- A total of 371 claims have requested a Tier 1 review;
- 261 Tier 1 reviews have concluded;
- A total of 107 claims have requested a Tier 2 review;

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569 Grace Nwobodo ([WCS0025](#)).

570 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, paras 10.1–10.5.

571 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, paras 10.7–10.12.

572 The Adjudicator's Office's role is set out in a service level agreement with the Home Office. HM Government, '[Service Level Agreement for the provision of independent review services](#)', 9 December 2019.

573 Home Office, [Windrush Compensation Scheme Rules](#), Version 7.0, 2 August 2021, paras 10.13–10.20.

574 Gov.uk, '[How to complain about the Adjudicator's Office service or decision](#)', (accessed 30 June 2021). The PHSO makes final decisions on complaints that have not been resolved by the NHS in England and UK government departments and other public organisations.

- 36 Tier 2 reviews have concluded.<sup>575</sup>

265. Although the Home Office publishes the number of requests for Tier 1 and Tier 2 Reviews received and the number that have been concluded, it does not routinely publish the outcomes. In November 2020 the Permanent Secretary wrote to us that, as at the end of September 2020, sixteen of the thirty concluded Tier 1 reviews had resulted in an increased offer. At Tier 2, each of the five concluded reviews upheld the Home Office's decision.<sup>576</sup> When we sought to update this information in July 2021, the Home Secretary was unable to provide us with updated data on the outcome of reviews because "The information is not readily available in a reportable format nor held centrally and could only be obtained at a disproportionate cost".<sup>577</sup> We requested this information again in September 2021, and the response from the Minister for Future Borders and Immigration advised that, to the end of July 2021:

- 211 Tier 1 reviews have been concluded, 172 were upheld, and 39 resulted in an increased offer of compensation.
- 24 Tier 2 reviews have been concluded, 23 were upheld, and 1 has resulted in an increased offer of compensation.
- No offers of compensation have been decreased following a Tier 1 or Tier 2 review.<sup>578</sup>

***266. Given the significance of the Windrush Compensation Scheme in righting the wrongs done by the Home Office, and the importance of getting the scheme right, we cannot understand why the Home Office has designed a system which does not allow senior civil servants, Ministers or this Committee to monitor the outcome of reviews of compensation offers. This should be an important management tool as well as being important for accountability. We welcome the provision of this information to us on our second request; it should however be published regularly as part of the wider Windrush Compensation Scheme transparency data. In its response to this Report, the Home Office should clarify how it is monitoring the outcome of reviews and sharing any lessons learned.***

267. In written evidence, Duncan Lewis Solicitors said that "the high numbers of reviews sought demonstrates that the individuals do not consider that the awards offered adequately reflect their losses".<sup>579</sup> Garden Court Chambers wrote that it can be distressing for claimants when their award is increased at the review stage: "they struggle to understand why the correct award was not made in the first place. They feel as though they are still 'fighting the system' even after the Home Secretary's apology and acknowledgement of their experiences. In some cases, the review decision does not even identify the basis upon which the decision was altered".<sup>580</sup> It is not clear from published sources whether or how the outcomes of reviews are used to inform feedback, guidance and training for caseworkers.

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575 Home Office, 'Windrush Compensation Scheme data: October 2021', 28 October 2021, Table WCS\_07.

576 [Letter from the Permanent Secretary on the Windrush Compensation Scheme](#), 11 November 2020.

577 PQ 25727 [on Windrush generation: Compensation], 6 July 2021.

578 [Letter from the Minister for Future Borders and Immigration on the Windrush Compensation Scheme](#), 29 September 2021.

579 Duncan Lewis ([WCS0020](#)).

580 Garden Court Chambers ([WCS0019](#)).

268. There are concerns that the multi-stage structure of the review process is causing additional delays for claimants. In oral evidence, Mr Forde said he designed a two-tier review process with an independent element after “Reluctantly, with a combination of expediency and pragmatism,” accepting that the Home Office would be responsible for administering the compensation scheme.<sup>581</sup> It was suggested to us that some claimants were deterred from seeking a review because of concerns over how long the process might take.<sup>582</sup> Grace Nwobodo told us the review process is “all again part of that time-wasting process of the whole scheme itself. Every element of it or every stage of it seems to be designed to waste more time”.<sup>583</sup> Windrush Lives wrote:

At present, the PHSO can only be drawn into the process if a claimant is unsatisfied following second-tier review [ ... ] this means adding up to a year to the compensation process.

Time is of the essence for many claimants due to age. Time is also of the essence because claimants’ lives remain on pause whilst waiting for the compensation process to be concluded. Many claimants are heavily in arrears and continue to incur debts whilst waiting to receive compensation.<sup>584</sup>

269. Evidence we received also challenged the independence of the Tier 2 review.<sup>585</sup> The inability of the Adjudicator’s Office to enforce its recommendations to the Home Office is seen as problematic and several witnesses did not consider the Adjudicator’s Office to be sufficiently independent of the Home Office or of Government.<sup>586</sup> The Adjudicator’s Office is staffed by employees of Her Majesty’s Revenue and Customs (HMRC); the Adjudicator, currently Helen Megarry, is external to HMRC and is an independent office holder.<sup>587</sup>

270. Some witnesses contrasted the Windrush Compensation Scheme review process with other redress schemes, such as the Lambeth Children’s Homes Redress Scheme and the Northern Ireland Redress Scheme, and suggested that the establishment of a judge led panel or appointment would be more appropriate.<sup>588</sup> Mr Tobierre said:

The biggest flaw in all of this is the person that’s committed the wrong is judging it, which doesn’t make sense. If you’re marking your own homework, whatever it might be, it’s not logical. You have the tier one, tier two, you have all these reviews and it goes back to the same people to review it.

Mr Tobierre acknowledged that the Adjudicator’s office is staffed by HMRC but considered that this made little difference since HMRC “is part of the establishment”.<sup>589</sup>

271. We wrote to the Home Secretary to ask why the Adjudicator’s Office cannot enforce its recommendations to the Home Office. She responded that “The Home Office retains the right to not accept or implement the recommendations of the Adjudicator’s Office

581 [Q51](#).

582 Anonymus ([WCS0004](#)).

583 Dominic Akers-Paul et al ([WCS0025](#)).

584 Windrush Lives ([WCS0023](#)).

585 Mr Tobierre and Ms Tobierre ([WCS0022](#)), Windrush Lives ([WCS0023](#)), Grace Nwobodo ([WCS0025](#)),

586 North Kensington Law Centre ([WCS0014](#)), Ravi Nayer ([WCS0016](#)), Windrush Justice Clinic ([WCS0017](#)), Windrush Lives ([WCS0023](#)).

587 Gov.uk, ‘[Adjudicator’s Office: About us](#)’, (accessed 30 June 2021)

588 Leigh Day ([WCS0013](#)), Ravi Nayer ([WCS0016](#)), Windrush Justice Clinic ([WCS0017](#)), Child Migrants Trust ([WCS0024](#)).

589 Mr Tobierre and Ms Tobierre ([WCS0022](#)).

(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”<sup>590</sup>

**272. Given the Home Office’s role in causing the initial harm it is extremely problematic that the Department is not only responsible for the design and administration of the Windrush Compensation Scheme, but that it also retains full control over interpretation of the scheme rules. We consider the establishment of a more robust and efficient review process to be an important step in improving confidence in the scheme.**

*273. We call on the Home Office to establish a demonstrably independent single-stage review process in which claimants have greater confidence, such as a judge-led panel. The Home Office should accept and implement decisions of the independent review. Where an initial decision is amended, the Home Office should gather feedback on the initial decision-making process to share with caseworkers and, where appropriate, use this feedback to inform and update caseworker training and guidance to improve the quality of initial decision-making. All claimants should have the right to access the new review process irrespective of whether their claim has concluded or is ongoing. This approach would be consistent with the retrospective application of changes which have been made to the scheme previously.*

**274. We are concerned to hear that some claimants may be reluctant to access the review process due to concerns about the impact of further delay on their financial situation. The Home Office should work to establish an estimated timescale for reviews which can be shared with claimants. Wherever possible, claimants should receive preliminary or interim payments; such payments should not affect a claimant’s right to seek a review of their full and final offer.**

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590 [Letter from the Home Secretary on the Windrush Compensation Scheme](#), 29 March 2021.

## 8 Conclusion

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275. The treatment of the Windrush generation by successive governments and the Home Office was truly shameful. No amount of compensation could ever repay the fear, the humiliation and the hurt that was caused both to individuals and to communities affected. This was a grave betrayal; lessons must be learnt by all.

276. The purpose of the Windrush Compensation Scheme is to ensure that those who have suffered loss due to their inability to demonstrate their lawful status can receive the maximum amount of compensation to which they are entitled and to right some of the wrongs done by the Home Office. That is what makes it so deeply troubling that the Home Office's handling of claims has repeated the same mistakes which lead to the Windrush scandal in the first place. Those who apply face a daunting application process without adequate support; they face unreasonable requests for evidence; they are left in limbo in the midst of inordinate delays. Too often, injustice has been compounded rather than compensated. This is unacceptable and must not continue.

277. We welcome the personal commitment expressed by the Home Secretary to the operation of the scheme and the improvements that have been made to the scheme over time; however, these changes have taken far too long and have not gone far enough. Our report shows that there are still fundamental problems that have yet to be addressed. The problems with the Windrush Compensation Scheme are not insurmountable. We have been humbled by the dignity and the determination of those with direct experience of the issues who have contributed to our inquiry and by their willingness to assist with the identification of areas which can be improved, for the benefit of others. To demonstrate its commitment both to helping the Windrush generation and to transforming its culture, the Home Office must act urgently to address issues with the Windrush Compensation Scheme.

## Conclusions and recommendations

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### Our inquiry

1. We are deeply concerned that, as of the end of September, only 20.1% of the initially estimated 15,000 eligible claimants have applied to the scheme and only 5.8% have received any compensation. The troublingly low level of applications and payments are evidence enough that the scheme has not worked as intended. It is even more distressing that twenty-three people have died before receiving any Windrush compensation payment. (Paragraph 22)
2. *Many people who have applied for compensation have yet to receive a penny and we have heard too many stories of people struggling with impossible demands for evidence, poor communication from the Home Office and a lack of understanding of the issues they faced. For some, the experience of applying for compensation from the Home Office has become a source of further trauma rather than redress. Many of the concerns raised with us about the Windrush Compensation Scheme as part of this inquiry have echoes of the same criticisms made of the Home Office by Wendy Williams in her report into how the Windrush scandal occurred. It is a damning indictment of the Home Office that the design and operation of this scheme contained the same bureaucratic insensitivities that led to the Windrush scandal in the first place, and suggests that the culture change promised in the wake of the scandal has not yet occurred. We are deeply concerned that delays and difficulties in the compensation scheme have compounded the injustices faced by members of the Windrush generation. As a result, we urge Wendy Williams to look at the compensation scheme as part of her review of the Home Office's progress on her recommendations.* (Paragraph 23)

### An unknown number of applicants

3. We are troubled that over four times as many people have had their status or citizenship confirmed under the Windrush Scheme as have applied for compensation, and we are concerned that the Home Office is lowering its estimates of the total number of potential claimants based on the low level of applications rather than the number of those actually eligible for the compensation scheme. We share the NAO's concern about the Department's lack of curiosity concerning non-Caribbean cases and its failure to identify individuals proactively who have been granted status but have not applied for compensation. (Paragraph 31)
4. It reflects the deep and far-reaching problems with the compliant environment policy that, four years on from the emergence of the scandal, the Home Office still does not know how many people were affected and how many are eligible to apply to the Windrush Compensation Scheme. (Paragraph 32)
5. *The Home Office should provide more details of how it is identifying the assumptions underpinning its claim volume scenarios and how it is establishing its planning estimates in its response to this Report.* (Paragraph 32)



### A lower than expected number of applications

6. It is clear from the low level of claims submitted to the compensation scheme to date, and from evidence we have received, that there is considerable work to be done in order to rebuild trust and confidence in the Home Office to deliver the Windrush Compensation Scheme, and to demonstrate to people both that it is safe to seek confirmation of their lawful status and that it is worthwhile to make a claim for compensation. (Paragraph 37)
7. It would have been far better for establishing trust if the compensation scheme had been administered independently from the Home Office from the start, as many Windrush campaigners have called for. By keeping the compensation scheme within the very Department that caused the Windrush scandal, the Government has undermined confidence in the scheme and also made it vulnerable to some of the same problems that characterised the Home Office approach to the Windrush generation in the first place. (Paragraph 38)
8. *In order to increase trust and encourage more applicants, we believe that the scheme should be transferred to an independent organisation.* (Paragraph 38)
9. The changes to the Windrush Compensation Scheme which were announced in December 2020 were long overdue and the increase in applications since then is to be welcomed. The Department's work to understand better why eligible people have yet to apply for compensation is also to be welcomed. However, that application volumes are still much lower than expected points to deep and persistent problems. The evidence provided to us makes it plain that the delays and difficulties in applying for the scheme, together with a deep mistrust of the Home Office, form a toxic combination which may be putting off those who were caught up in the Windrush scandal from applying, for fear of being re-traumatised by the process. The Home Office's finding that, for some individuals, the impact of the Windrush scandal was primarily about status and belonging does not absolve it of its responsibility to do all that it can to provide compensation to those eligible and entitled to receive it. The onus is on the Home Office to rebuild trust with the Windrush community and to make applying for compensation as easy a process for the claimants as it possibly can be. So far, that has patently not been the case. (Paragraph 41)
10. *Given the continued uncertainty around the number of eligible claimants and the fact that some eligible claimants currently lack the confidence, patience or trust in the Home Office to apply for a scheme administered by the Department, we strongly welcome the removal of the formal end date for the scheme. However, we implore the Home Office to be even more proactive in rebuilding trust with members of the Windrush community.* (Paragraph 42)
11. We hope that the changes since December 2020 that have increased the level of award available and made the process simpler will also help encourage more people to apply for the scheme. The Home Office could improve trust and confidence amongst claimants by being more transparent about the value of awards it is making. Greater openness about the value of compensation payments may also help to assure eligible people who are yet to apply for compensation that making a claim is worthwhile. (Paragraph 43)

12. *We welcome the recent publication of data on full and final offers. The Home Office should publish this data at least every six months; it should also publish data on the number of full and final impact on life payments made at each level of award. (Paragraph 43)*

### Proactively identifying those affected

13. As previously stated, whilst we recognise the challenges faced by the Home Office in both estimating the number of, and identifying, people who may be eligible for the Windrush Compensation Scheme, we agree with the NAO, the Public Accounts Committee and Wendy Williams that more could be done proactively to identify affected individuals and support them in accessing the assistance available through the Windrush schemes. (Paragraph 49)
14. All those who received help from the Windrush Scheme to get their papers and documentation resolved should have been contacted and offered help with applying for the Windrush Compensation Scheme. (Paragraph 50)
15. *The Home Office should clarify how many of those 13,800 people were proactively contacted and offered support to apply for compensation as well. It should contact them again to ensure they have full information about the changes to the compensation scheme and the help available to apply. (Paragraph 50)*
16. *The Home Office should also explain clearly how it has considered and is seeking to mitigate any risks it identified when making the decision not to broaden the scope of its historical cases review, including but not limited to the risk of failing to identify non-Caribbean Commonwealth nationals who may have been wrongly detained and/or removed, or whose data may have been proactively shared with other government departments. The Home Office has stated that widening the scope of the historical cases review would take a 'substantial number of caseworkers around two years to review at a significant cost'. Without being provided a precise estimate of what that cost would be, we cannot accept that as a reasonable justification for not widening the scope of the review as suggested by the Public Accounts Committee and by Wendy Williams in her Lessons Learned Review. The Home Office must share its estimate of the cost and caseworkers required. (Paragraph 51)*

### The impact of covid-19 on engagement events

17. We share claimants' and their representatives' concerns that digital engagement events and advertising may be less effective in reaching this cohort. (Paragraph 59)
18. *As restrictions are lifted, planning and preparations must commence to ensure that the Department is ready to launch a new and extensive programme of face-to-face engagement events as soon as it is safe to do so. (Paragraph 59)*

### Grassroots campaign

19. We believe that a community-centred strategy is vital for building trust in the compensation scheme given the pervasive distrust of the Home Office within the affected communities. (Paragraph 68)
20. *The Home Office should look at more innovative ways of reaching communities, for instance video guides.* (Paragraph 68)
21. Whilst the Home Office's grassroots campaign and the launch of the Windrush Community Fund are welcome, it is unacceptable that they took so long to get off the ground and didn't even start providing funds for community projects until two years after the compensation scheme opened. As a result of those unexplained delays, nearly four years on from the Windrush scandal many people are still too fearful of the Home Office to apply for the Windrush schemes and have yet to be reassured that engaging with the Department on compensation will not leave them vulnerable to Immigration Enforcement. Rebuilding trust through community and grassroots networks should have been an urgent priority once the scheme had launched; instead, the delays that have become characteristic of the Home Office's work on Windrush have significantly stalled progress on outreach too. (Paragraph 68)
22. *The Home Office should bolster the support and funding available to grassroots campaigns and community groups tasked with raising awareness of the Windrush schemes, ensuring that those in which the community has confidence and which have expertise in this work are adequately supported. It should look to scale up its grassroots outreach work in the coming years, instead of ending the active phase of its communications and outreach programme in 2023.* (Paragraph 68)
23. *When individuals apply for the Windrush Compensation Scheme, the Department should collect data on how they heard about it. This would allow for proper evaluation of their outreach work and help decide where more resources should be targeted.* (Paragraph 69)

### Reaching all affected communities

24. *The Home Office must ensure that all communications about the Windrush schemes make clear that eligibility is not limited to the Caribbean Commonwealth, and that there is dedicated outreach and targeted communications for those from non-Caribbean Commonwealth countries. It should evaluate the community projects it is now funding in order to learn how best to ensure that its own outreach efforts are effective in reaching and engaging with all affected communities. The Government should also clarify how British High Commissions overseas are being supported to raise awareness of the Windrush schemes.* (Paragraph 73)

### Monitoring and improving performance

25. Given that the Windrush Compensation Scheme was set up to right the wrongs done by the Home Office to a predominantly older generation, many of whom had suffered considerable hardship as a result, there should have been a clear focus from the start on ensuring that compensation could be paid as swiftly and smoothly as

possible. It is therefore staggering that the Home Office first failed adequately to prepare for, resource and staff the Windrush Compensation Scheme before opening it for applications, and then failed again to monitor the performance of the scheme sufficiently and to identify the cause of the delays. The complex nature of the impacts suffered by those affected was evident both in the extensive media coverage of the scandal and in responses to the Home Office's own public consultation on the design of the scheme: that the complexity of applications it received seemingly took the Department by surprise is incomprehensible. It has taken far too long for the Department to accept that greater increases to the number of caseworkers were required. We consider that the long waits faced by claimants were not inevitable and believe the Home Office must accept responsibility for its part in causing these delays. (Paragraph 89)

26. We welcome the reviews the Department is now undertaking to get to grips with the application and casework process and the plans to increase casework capacity further. However, we believe it has taken far too long for this to happen given the concerns—such as the evidential requirements of the scheme—which have been raised repeatedly since it opened. We are concerned that the Home Office failed to meet its August milestone and consider that it will struggle to make adequate progress unless it takes significant action and takes it very quickly. (Paragraph 90)
27. *The Home Office must build on the work of the NAO and undertake a comprehensive analysis of its current workflow system to identify precisely where and why bottlenecks, backward steps, inefficient processes and slow decisions are occurring. It must interrogate these findings rigorously and be prepared to act swiftly and boldly to address causes of delay, including updates to caseworker training and guidance and, where necessary, the scheme rules.* (Paragraph 90)
28. *The Department must act urgently to improve its performance management information and clarify its casework capacity and staffing needs, ensuring that casework capacity is expanded as quickly as possible. The Department should share its findings and the actions it is taking to address them with this Committee. It should provide an initial response within two months of the publication of this report and further updates after four months and six months.* (Paragraph 91)

### The introduction of a preliminary impact on life award

29. *The Home Office should clarify what progress it made on processing cases submitted prior to 14 December 2020 between 14 December 2020 and 31 March 2021; additionally, going forwards, the scheme data it publishes monthly should include: the number of offers made; whether offers are interim, preliminary or final, and the number of claims that have been in the scheme for a) 6–12 months, b) 12 to 18 months, c) 18 to 24 months and d) longer than 24 months.* (Paragraph 98)
30. Whilst we strongly welcome the introduction of the preliminary payment for impact on life, we are disappointed by the Home Office's estimate that only 40–50% of claimants will benefit from it. It is right that the Home Office created a mechanism to accelerate payments in light of unacceptable delays, but these preliminary awards

clearly do not go far enough. The Windrush generation are an ageing cohort and too many individuals have already died without receiving compensation for the hardship they endured. This must not happen again. (Paragraph 101)

31. *The Home Office should provide the preliminary £10,000 impact on life award to all those the Department has previously acknowledged were wrongly subjected to immigration enforcement measures or were wrongly denied proof of their lawful status as a result of the Windrush scandal. The award should be issued irrespective of whether the claimant can evidence harm or financial losses caused by the Home Office's failure to ensure that individuals could demonstrate their lawful status; it should be made in recognition of the Department's appalling treatment of the Windrush generation when it lost sight of this cohort and in recognition of the fact that many of those affected are part of an ageing generation that has contributed heavily to this country, but that cannot wait many years for compensation to be calculated. The £10,000 should be paid within two months and any further calculated compensation entitlement must follow.* (Paragraph 102)
32. We also strongly welcome the increased payments for impact on life. However, we are troubled that one of the reasons identified by the NAO for this change was, effectively, to supplement other categories of loss where compensation is either insufficient or inaccessible due to the evidential requirements. We are saddened to hear that some individuals have accepted an offer which does not reflect their losses because they could no longer face the process. (Paragraph 103)
33. *The changes made to the scheme in December do not go far enough to address the delays and the unreasonable demands for evidence which claimants are facing.* (Paragraph 103)

### Estate claims

34. Given the very apparent delays in processing estate claims and the clear reason for this, it is unacceptable that the Home Office has only recently provided a solution. (Paragraph 108)
35. *The Home Office should monitor the impact of its package of support carefully to ensure that it is meeting the needs of people who are claiming on behalf of an estate.* (Paragraph 108)

### Communication with caseworkers

36. *Claimants facing long delays deserve to know where their claim is in the process and to understand what progress has been and is currently being made on their claim. Updates should be substantive and all communications must maximise opportunities to make further progress.* (Paragraph 111)

### Changes to the application form and guidance

37. We welcome the improvements that have been made to the claim forms and accompanying guidance. However, we are disappointed that the Home Office did



not act upon the advice of its then independent adviser and that it took more than two years to make these changes, during which time the scheme has significantly underperformed. (Paragraph 122)

38. *Reissuing the claim form guidance in plain English is a welcome first step in improving the application process, but the Department must continually be aware that the demands of this form may still represent a significant challenge to this cohort, many of whom may be vulnerable. As we were told by Garden Court Chambers, “plain language does not always equate to ease of access”. The Home Office must also address the adequacy of support available to claimants in completing their application.* (Paragraph 122)
39. We welcome the Home Office’s decision to enable individuals to contact We Are Digital directly for assistance with their application form; this recognises that some people who are eligible for compensation will not feel comfortable accessing assistance through the Department. (Paragraph 126)

### Assistance with completing applications

40. It is essential that claimants to the scheme have ready access to the end-to-end support they need in ways which are comfortable for them. Given the nature and the complexity of the impacts suffered, we are very concerned that support sessions are limited to three hours. (Paragraph 131)
41. *We urge the Home Office to enable We Are Digital to book as many additional support sessions for claimants as are needed and to monitor feedback from claimants carefully to ensure any gaps in support are identified. We believe that the service provided by We Are Digital should complement rather than replace specialist legal support.* (Paragraph 131)

### Calls for legal assistance

42. There are strong arguments for facilitating access to legal advice for people who wish to seek help with their claim. Having access to funded legal representation may help more people to feel confident accessing and engaging with the scheme. It would also facilitate a greater number of comprehensive, well-ordered claims which can be processed more efficiently by caseworkers. (Paragraph 139)
43. *We do not believe that the limited service provided by We Are Digital is sufficient to obviate the need for specialist legal advice. We therefore urge the Home Office to introduce new arrangements to ensure that everyone who wishes to access legal assistance with their claim is able to do so. The Home Office should consider the following options as part of its review:*
- *Extending the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to include work done under the Windrush Compensation Scheme and waiving means testing for this work;*
  - *Establishing an approved panel of legal firms and professionals, with a funding scheme to provide payment for their services to claimants;*



- *Agreeing a tariff payment for legal costs to be reimbursed to claimants. The payment should reflect the level of support the claimant required, for example whether they requested a review;*
- *Establishing and maintaining a dedicated fund for organisations to provide free legal assistance to claimants. (Paragraph 140)*

### Evidential requirements

44. We agree with Mr Forde that the higher standard of proof had no place in this scheme: its inclusion has damaged trust significantly and demonstrates a serious lack of understanding by the Home Office as to what caused the Windrush scandal in the first place. We are deeply concerned that, despite warnings from Wendy Williams and its then independent adviser, the Home Office has persisted in placing an undue burden on claimants to provide documentary evidence of the losses they suffered. This indicates a continued failure by the Department to learn the lessons from the Windrush scandal. It also reinforces our recommendation that the Windrush Compensation Scheme should be considered as part of Wendy Williams' review of the Home Office's progress on her recommendations (see paragraph 23). (Paragraph 154)
45. We strongly welcome the removal of the higher standard of proof from the scheme and the revised guidance for caseworkers issued in July 2021. However, we are extremely disappointed that it has taken the Home Office so long to respond to longstanding concerns about how the standard of proof should be applied and how requests for further information from claimants are to be handled. (Paragraph 155)
46. *We are not yet convinced that the Home Office has done enough to embed a light touch approach to evidence: for example, we note that the revised caseworker guidance provides no detail as to what the changes made to the standard of proof in October 2020 mean in practice. We urge Ministers and senior officials to examine a sample of individual cases to understand how the 'on the balance of probabilities' standard of proof is being applied and to establish what further training and guidance is needed to ensure a fair and empathetic approach to the use of evidence. While it is encouraging that the Home Office has launched the new Ethical Decision-making Model, in its response to this report the Department must clarify how it intends to embed and monitor the performance of the new model within the compensation team. The Department should provide regular updates to this Committee on issues raised by decision-makers and how these are being resolved. (Paragraph 156)*
47. *Given the concerns about the Department's understanding of the eligible cohort and the difficulties with obtaining documentary evidence, in the interest of transparency we further recommend that the Home Office urgently publishes its equalities impact assessment for the Windrush Compensation Scheme. (Paragraph 157)*

### Impact on life

48. We welcome the increase in compensation that is available for impact on life; however, we have not yet seen evidence that the new tariff has addressed the underlying concerns about how this category of claim operates. There is a lack of clarity as

to how the level of compensation for impact on life is decided and how impacts are considered at each tariff level. We are also concerned that the determination of these awards is heavily dependent upon evidence which is difficult for claimants to obtain, such as the use of medical evidence to determine the severity of impacts suffered. (Paragraph 175)

49. *The Home Office must provide greater clarity about how impact on life awards are determined and should issue clear guidance on how different types of impact and levels of harm correspond to each tariff level.* (Paragraph 176)
50. *Given that the Home Office has yet to use its capacity to seek expert medical advice to support determinations on these complex awards, it should be open to claimants to be able to request expert medical advice if they are seeking a higher level award and in particular as part of the review process if they dispute their level of award.* (Paragraph 177)

### Loss of access to employment

51. As the Home Secretary has acknowledged, it is not possible for some claimants to document what their earnings were or would have been when they lost access to employment because this information is not always accessible or may never have been recorded. We are concerned that too many people in these circumstances are receiving a general award which is limited to the minimum level of earnings as measured by the 2019 National Living Wage. Furthermore, we consider that the limitations on compensation for loss of future earnings and loss of pension are very problematic given that many claimants are approaching pensionable age. (Paragraph 191)
52. We recognise that it might be possible to reflect better the losses incurred by some individuals by looking at pay levels in the sector they worked in, regardless of the direct evidence of the wages they can provide. The Government should consider this as an option in individual cases. However, given that this will not apply for many individuals, and given the risk of further delays, we recommend increasing the general award to at least next year's National Living Wage of £9.50 per hour given that most people have still not yet received their payments and the 2019 minimum wage is an arbitrary figure to choose. Based on an average full-time working week of 37 hours, this would raise the general award to £18,278 per year, or £1,523.16 per month. Going forwards, the tariff used should be based on at least the National Living Wage being used when the payment is made. Loss of pension and loss of future earnings should be brought within scope of the scheme: a set award or general tariff would ensure all eligible individuals are compensated regardless of available evidence. The complexity of this issue should not preclude the Home Office from implementing a solution: at the very least, the Department should consider the legal minimum employer pension contribution, which is currently three per cent. (Paragraph 192)
53. *Across all categories of claim, caseworkers must consider holistically the situation the claimant was in: where an eligible claimant was unable to demonstrate their right to live, work and access services in the UK, compensation should not be declined solely on the basis that they are unable to document a causal link between their inability to evidence their lawful status and the loss they have suffered.* (Paragraph 193)

### Immigration fees and legal costs

54. The Windrush Lessons Learned Review demonstrates the difficulties the Windrush generation faced when trying to navigate the immigration system. The exclusion of some immigration applications from the Windrush Compensation Scheme unfairly penalises individuals who have incurred considerable losses through making immigration applications in good faith to try and resolve the difficulty they faced with demonstrating their lawful status. (Paragraph 197)
55. *Claimants should be entitled to receive compensation for any immigration application they made whilst seeking documentation to prove their lawful status.* (Paragraph 197)
56. *The Home Office should review its decision not to refund any claimants for past fees paid for successful citizenship and Indefinite Leave to Remain.* (Paragraph 199)
57. It is unfair that those who accessed legal advice should find themselves unable to receive compensation for their actual costs. The justification for limiting awards fails to recognise the particular difficulties the Windrush generation faced upon trying to confirm their lawful status with the Home Office. The reason people had to resort to legal advice was because the Home Office was not treating them fairly or according to their rights and because the Home Office was imposing a huge injustice upon them. It is a double injustice for them then to be told there is no compensation for the attempts they were forced to make to defend their rights. (Paragraph 203)
58. *The scheme rules should be amended so as to remove the £500 per application limit on compensation for past legal fees that were needed and paid because of the Windrush scandal.* (Paragraph 203)

### Homelessness

59. The Home Office appears to be applying an unduly narrow definition of homelessness which fails to consider the circumstances in which some members of the Windrush generation found themselves. (Paragraph 208)
60. *The Home Office should clarify that awards under the category of claim for homelessness are available to individuals who lived with family and friends whilst they were unable to access housing or because their financial situation meant they lost their home.* (Paragraph 208)

### Discretionary awards

61. We are concerned that the number of claims submitted under the discretionary category may indicate a disparity between the Home Office's intention for this provision and claimants' understanding of the purpose of this aspect of the Scheme. (Paragraph 213)
62. *The Home Office should clarify the basis upon which it drafted the rules and guidance on the discretionary award.* (Paragraph 213)

63. We are further concerned by the lack of clarity for claimants as to the circumstances in which they can apply for a discretionary award. It is also not clear why claimants appear to have been required in practice to meet different evidential requirements for this category of claim. (Paragraph 214)
64. *The Home Office should be more transparent about the types of loss it is prepared to compensate through a discretionary award and should set out what types of claim under this category have previously been accepted. The Home Office should also provide assurances as to how consistency in decision-making is maintained both within this category and across the compensation scheme.* (Paragraph 214)
65. The high number of claims made for a discretionary award suggests that there are types of loss not yet accounted for within the scheme. It may also indicate a continuing lack of clarity about the headings under which certain types of claim should be made. It is important therefore that the Home Office closely monitors this category of claim. (Paragraph 215)
66. *We call on the Home Office to conduct an analysis of all discretionary claims received to date to establish the types of loss people are claiming for. The Department must provide its findings to this Committee within two months of publication of this report and explain how it will address them.* (Paragraph 215)

### Compensation for individuals who were unable to return to the UK

67. *We call on the Home Office to explain how awards across all categories of claim are determined for individuals who were unable to return to the UK, including those unable to return for multiple decades, and to introduce a tariff payment specifically to compensate individuals who were unable to return to the UK.* (Paragraph 219)

### Mitigation of loss

68. Whilst we welcome the changes that have been made to the mitigation policy over time, we have been unable to get clarity about how this policy is working in practice now. We agree with Mr Forde that it was not appropriate to include rules on mitigation of loss in this compensation scheme and we are disappointed that the Government chose to reject his advice. The more rigid requirements placed on individuals by the initial mitigation policy have damaged trust and confidence in the Home Office's willingness to understand the impact of its policies on the members of the Windrush generation. (Paragraph 229)
69. While the Home Office has said that awards for loss of access to employment are no longer capped because of a lack of mitigation action, we have been unable to clarify how the mitigation requirements are being applied to other claim categories, as appears to be allowed within the scheme rules. For each claim category, the Home Office should provide us with data for the number of times a decision to reduce or decline an award has been referred for approval because of the mitigation requirements and the number of times an award has been reduced or declined on this basis subsequently. (Paragraph 230)

70. *We believe that rules on mitigation of loss are not appropriate for a compensation scheme of this nature: the Home Office should lift any remaining mitigation requirements.* (Paragraph 230)

### Criminality

71. *Given the concerns raised by the independent adviser on the design of the Windrush Compensation Scheme, as well as the risks of costly legal challenges, we recommend that future decisions on whether to reduce or decline an award because of previous criminality should be independently reviewed. This should be done by referring the decision to the independent review panel we recommend should be established in paragraph 273 of this Report.* (Paragraph 233)

### Non-financial remedies

72. *The Home Office must ensure that apologies to those affected by the Windrush scandal are issued at the earliest opportunity and that the Department's role in causing any impacts or losses suffered is fully acknowledged.* (Paragraph 234)
73. *The commitment to holding reconciliation events is a particularly important one and must not get lost. In its response to this Report, the Home Office should clarify what progress it has made on implementing a programme of reconciliation events with members of the Windrush generation, including what work has taken place to identify follow-up support in addition to financial compensation.* (Paragraph 238)

### The Urgent and Exceptional Payment Scheme

74. *The Urgent and Exceptional Payment Scheme was rightly, albeit belatedly, set up to help those who needed immediate financial assistance, including those facing real hardship. However, in too many cases it has failed to do so and it appears to have operated with the same bureaucratic insensitivities as those which led to the Windrush scandal in the first place. It is completely unacceptable that individuals facing hardship due to Home Office failures should continue to be let down and left destitute by the Department while they wait for compensation payments.* (Paragraph 248)
75. *The Home Office and consecutive Home Secretaries have acknowledged and apologised for the losses faced by the Windrush generation as a result of failings within the Department, yet that acceptance has not translated into quick and adequate compensation, even where individuals are facing urgent or exceptional hardship. In order to rectify this, the Home Office should reduce the bureaucratic burden placed on applicants for urgent and exceptional support, in recognition of the fact that a prohibitively high standard of proof and limited interpretation of 'urgent' and 'exceptional' hardship will result in delays and rejections for those in desperate situations through no fault of their own. Caseworkers should be directed to take a broader, more sympathetic approach when interpreting whether circumstances are urgent or exceptional, with particular attention paid to those struggling with debts and arrears they have accrued because of their inability to demonstrate their lawful status.* (Paragraph 249)



76. *The Department should also raise the standard payment cap of £5,000 to ensure that those who are in urgent need of greater financial support, or those who face multiple simultaneous financial challenges, are provided with adequate emergency funds to alleviate their hardship. It should ensure applicants receive a decision within ten days. (Paragraph 250)*
77. In light of the evidence we have received, we reject the Home Secretary's assertion that it is sufficiently clear to individuals that, in most circumstances, any payment they receive under the urgent and exceptional support policy will be treated as an advance on a future compensation award. (Paragraph 255)
78. *The 'Windrush scheme: support in urgent and exceptional circumstances' guidance should be amended immediately to make clear that urgent and exceptional payments can be recovered in full from a subsequent offer of compensation; caseworkers should receive training to ensure that this is also made sufficiently clear in any direct communications with individuals. (Paragraph 255)*

### Other types of support provided by the Vulnerable Persons Team

79. We welcome the creation of a Vulnerable Persons Team to help claimants navigate difficult conversations with government departments and solve their cases. However, we are deeply concerned by reports that the team is failing to treat vulnerable applicants sensitively and, in some cases, further distressing vulnerable individuals through poor customer service and a lack of clarity about what it can achieve. (Paragraph 261)
80. *We are disappointed that the Home Office has yet to resume routine publication of data relating to the support in urgent and exceptional circumstances policy and the work of the Vulnerable Persons Team. This information must be published regularly. We also recommend that adequate feedback processes are put in place to ensure a good quality of service is provided by the Vulnerable Persons Team. We call on the Home Secretary and the Permanent Secretary to review the operation of the Vulnerable Persons Team, including the guidance they follow and the sensitivity of the support offered. We also call on Wendy Williams to look at the team as part of her review. (Paragraph 262)*

### The review process

81. *Given the significance of the Windrush Compensation Scheme in righting the wrongs done by the Home Office, and the importance of getting the scheme right, we cannot understand why the Home Office has designed a system which does not allow senior civil servants, Ministers or this Committee to monitor the outcome of reviews of compensation offers. This should be an important management tool as well as being important for accountability. We welcome the provision of this information to us on our second request; it should however be published regularly as part of the wider Windrush Compensation Scheme transparency data. In its response to this Report, the Home Office should clarify how it is monitoring the outcome of reviews and sharing any lessons learned. (Paragraph 266)*
82. Given the Home Office's role in causing the initial harm it is extremely problematic that the Department is not only responsible for the design and administration



of the Windrush Compensation Scheme, but that it also retains full control over interpretation of the scheme rules. We consider the establishment of a more robust and efficient review process to be an important step in improving confidence in the scheme. (Paragraph 272)

83. *We call on the Home Office to establish a demonstrably independent single-stage review process in which claimants have greater confidence, such as a judge-led panel. The Home Office should accept and implement decisions of the independent review. Where an initial decision is amended, the Home Office should gather feedback on the initial decision-making process to share with caseworkers and, where appropriate, use this feedback to inform and update caseworker training and guidance to improve the quality of initial decision-making. All claimants should have the right to access the new review process irrespective of whether their claim has concluded or is ongoing. This approach would be consistent with the retrospective application of changes which have been made to the scheme previously.* (Paragraph 273)
84. We are concerned to hear that some claimants may be reluctant to access the review process due to concerns about the impact of further delay on their financial situation. (Paragraph 274)
85. *The Home Office should work to establish an estimated timescale for reviews which can be shared with claimants. Wherever possible, claimants should receive preliminary or interim payments; such payments should not affect a claimant's right to seek a review of their full and final offer.* (Paragraph 274)

## Conclusion

86. The treatment of the Windrush generation by successive governments and the Home Office was truly shameful. No amount of compensation could ever repay the fear, the humiliation and the hurt that was caused both to individuals and to communities affected. This was a grave betrayal; lessons must be learnt by all. (Paragraph 275)
87. The purpose of the Windrush Compensation Scheme is to ensure that those who have suffered loss due to their inability to demonstrate their lawful status can receive the maximum amount of compensation to which they are entitled and to right some of the wrongs done by the Home Office. That is what makes it so deeply troubling that the Home Office's handling of claims has repeated the same mistakes which lead to the Windrush scandal in the first place. Those who apply face a daunting application process without adequate support; they face unreasonable requests for evidence; they are left in limbo in the midst of inordinate delays. Too often, injustice has been compounded rather than compensated. This is unacceptable and must not continue. (Paragraph 276)
88. We welcome the personal commitment expressed by the Home Secretary to the operation of the scheme and the improvements that have been made to the scheme over time; however, these changes have taken far too long and have not gone far enough. Our report shows that there are still fundamental problems that have yet to be addressed. The problems with the Windrush Compensation Scheme are not insurmountable. We have been humbled by the dignity and the determination of those with direct experience of the issues who have contributed to our inquiry and by

their willingness to assist with the identification of areas which can be improved, for the benefit of others. To demonstrate its commitment both to helping the Windrush generation and to transforming its culture, the Home Office must act urgently to address issues with the Windrush Compensation Scheme. (Paragraph 277)

## Formal minutes

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**Tuesday 16 November 2021**

***Members present:***

Rt Hon. Yvette Cooper, in the Chair

Rt Hon Diane Abbott

Dame Diana Johnson

Stuart McDonald

***The Windrush Compensation Scheme***

Draft Report (*The Windrush Compensation Scheme*), proposed by the Chair, brought up and read.

Question put, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 277 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

**Adjournment**

Adjourned till Wednesday 17 November at 9.30 am.

# Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Wednesday 9 December 2020

**Jacqueline McKenzie**, Solicitor and Immigration Adviser, McKenzie Beute and Pope; **Holly Stow**, Senior Caseworker, North Kensington Law Centre [Q1–32](#)

**Martin Forde QC**, Independent Adviser, Windrush Compensation Scheme [Q33–67](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

WCS numbers are generated by the evidence processing system and so may not be complete.

- 1 Akers-Paul, Dominic ([WCS0025](#))
- 2 Amnesty International UK ([WCS0003](#))
- 3 Amnesty International UK ([WCS0010](#))
- 4 Ankrah, Alexandra ([WCS0027](#))
- 5 Anonymous, ([WCS0001](#))
- 6 Anonymous, ([WCS0004](#))
- 7 Caesar, Glenda ([WCS0025](#))
- 8 Child Migrants Trust ([WCS0024](#))
- 9 Chinegwundoh, Ms Gertrude Ngozi ([WCS0008](#))
- 10 Chinegwundoh, Ms Gertrude Ngozi ([WCS0025](#))
- 11 Duncan Lewis Solicitors ([WCS0020](#))
- 12 Garden Court Chambers ([WCS0019](#))
- 13 Hayibor, Christian ([WCS0025](#))
- 14 Home Office ([WCS0018](#))
- 15 Hudgell Solicitors ([WCS0012](#))
- 16 Ives, Rebecca (Wilson Solicitors LLP) ([WCS0015](#))
- 17 Leigh Day ([WCS0013](#))
- 18 McKenzie, Jacqueline ([WCS0033](#))
- 19 Mukherjee, Mr Neil (Windrush Legacy Oxon) ([WCS0011](#))
- 20 Nayer, Mr Ravi ([WCS0031](#))
- 21 Nayer, Mr Ravi ([WCS0016](#))
- 22 North Kensington Law Centre ([WCS0032](#))
- 23 North Kensington Law Centre ([WCS0014](#))
- 24 Nwazota, Carl ([WCS0025](#))
- 25 Nwobodo, Grace ([WCS0025](#))
- 26 Okafor, Nkiruka (Wilson Solicitors LLP) ([WCS0015](#))
- 27 Stow, Holly ([WCS0025](#))
- 28 Tobierre, Thomas and Charlotte ([WCS0022](#))
- 29 Trades Union Congress ([WCS0006](#))
- 30 UNISON ([WCS0005](#))
- 31 United Legal Access ([WCS0007](#))
- 32 Webley, Bishop Derek (Co-Chair, Windrush Cross-Government Working Group) ([WCS0028](#))
- 33 Williams, Mr Anthony ([WCS0025](#))

- 34 Williams, Mr Anthony ([WCS0021](#))
- 35 Windrush Action ([WCS0009](#))
- 36 Windrush Justice Clinic ([WCS0017](#))
- 37 Windrush Lives ([WCS0023](#))



## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

### Session 2021–22

Number	Title	Reference
1st	Violence and abuse towards retail workers	HC 141
2nd	The UK's offer of visa and settlement routes for residents of Hong Kong	HC 191
3rd	The Macpherson Report: Twenty-two years on	HC 139
4th	Appointment of the Chair of the Gangmasters and Labour Abuse Authority	HC 814
1st Special Report	Violence and abuse towards retail workers: Government Response to the Committee's First Report	HC 669
2nd Special Report	The UK's offer of visa and settlement routes for residents of Hong Kong: Government Response to the Committee's Second Report	HC 682

### Session 2019–21

Number	Title	Reference
1st	Home Office preparedness for Covid-19 (Coronavirus): Policing	HC 232
2nd	Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home	HC 321
3rd	Home Office preparedness for Covid-19 (coronavirus): immigration and visas	HC 362
4th	Home Office preparedness for COVID-19 (Coronavirus): institutional accommodation	HC 562
5th	Home Office preparedness for COVID-19 (coronavirus): management of the borders	HC 563
6th	Appointment of the Independent Chief Inspector of Borders and Immigration	HC 1024
1st Special Report	Serious Youth Violence: Government Response to the Committee's Sixteenth Report of Session 2017–2019	HC 57
2nd Special Report	Home Office preparedness for Covid-19 (coronavirus): domestic abuse and risks of harm: Government Response to the Committee's Second Report	HC 661
3rd Special Report	Home Office preparedness for Covid-19: coronavirus: policing: Government Response to the Committee's First Report	HC 660

<b>Number</b>	<b>Title</b>	<b>Reference</b>
4th Special Report	Home Office preparedness for COVID-19 (coronavirus): immigration and visas: Government Response to the Committee's Third Report	HC 909
5th Special Report	Home Office preparedness for COVID-19 (coronavirus): institutional accommodation: Government Response to the Committee's Fourth Report	HC 973
6th Special Report	Home Office preparedness for COVID-19 (coronavirus): management of the borders: Government Response to the Committee's Fifth Report	HC 974