



Home Office

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

21st August 2018

Dear Yvette,

I am writing to provide my July update on the work of my department in relation to Windrush, in line with the commitments I have previously made to your Committee. This update will provide further detail on:

- The work of the Taskforce
- Publication of revised Windrush Scheme and Guidance
- The historical review of removals and detentions
- Compliant environment banking measures
- The Windrush Compensation Scheme

The Work of the Taskforce

I have provided detail below on the work of the Taskforce, covering the following areas:

- Initial regularisation of status process
- The Windrush Scheme – in-country applications
- The Windrush Scheme – overseas applications

Initial regularisation of status process

On 16 April, the Home Office established a Taskforce to ensure that members of the Windrush generation were able to evidence their right to be in the UK. This section provides details relating to this immediate Home Office response to the Windrush issue. The data provided covers:

- Individuals contacting the Taskforce and called back by an experienced caseworker
- Individuals given documentation confirming their status
- Nationality of those given documentation confirming their status
- Date of arrival in the UK
- Decision timeliness

Some figures for April to June have changed slightly since the last update, as a result of the normal process of assuring records on the Casework Information Database, which is a live operational system. There may be more adjustments in future as a result of further assurance work. I have included these figures in italics to make clear where these slight changes have occurred.

Call-back referrals

This table relates to people who believed themselves to be part of the Windrush generation and made contact with the Taskforce after the call centre opened on 19 April. They were asked for further details during that call and, if they were considered possible Windrush, were referred for a call back from an experienced caseworker.

Month	Number referred for call backs	Number referred for call backs (enquiry received by phone)	Number referred for call backs (enquiry received by email)
Apr-18	2,873	2,748	125
May-18	3,302	2,925	377
Jun-18	264	197	67
Jul-18	68	47	21
Total	6,507	5,917	590

These numbers include only first contacts with the Taskforce leading to a call back. For the first ten days of the call centre operation, before the introduction of a bespoke IT system, it was possible for a single individual to receive multiple call backs.

Call and email volumes reduced during July and there are substantially fewer new Windrush cases making contact with the Taskforce.

Individuals given documentation confirming status

The following tables refer to individuals referred to a UK Premium Service Centre after contacting the Windrush Taskforce, and who have been issued with documentation to confirm their right to remain in the UK. Documentation confirming status includes people given Indefinite Leave to Remain (ILR) and No Time Limit (NTL). Data is broken down by date, by top five nationalities, and by date of arrival in the UK. This data comes from the Casework Information Database.

Month	Number of individuals given documentation confirming status
Apr-18	140
May-18	1,291
Jun-18	705
Jul-18	136
Total	2,272

Some of the people helped by the Taskforce are excluded from this data, such as those people who attended a Premium Service Centre appointment but for whom it was confirmed that they already held the necessary documentation, or those who went on to submit an application for and be granted citizenship under the Windrush Scheme before they had been issued with ILR or NTL documentation.

Nationality of those given documentation confirming status

<u>Nationality</u>	<u>April-July 2018</u>
Jamaica	1,093
Barbados	213
India	102
Grenada	88
Trinidad & Tobago	86
Other Nationalities	690
Total	2,272

Date of arrival in the UK

This table shows whether individuals given documentation arrived in the UK before or on 1 January 1973 or later, based on evidence gathered and recorded by the Taskforce.

<u>Month</u>	<u>Arrived before 1 January 1973</u>	<u>Arrived on or after 1 January 1973</u>	<u>Family Member</u>	<u>Not recorded</u>	<u>Total (by month)</u>
Apr-18	117	16	7	0	140
May-18	1,079	165	46	1	1,291
Jun-18	559	119	23	4	705
Jul-18	79	19	3	35	136
Total	1,834	319	79	40	2,272

Decision timeliness

This table shows the amount of time taken for decisions for those given documentation based on the time between biometric enrolment and the date of the decision being despatched. Biometric enrolment is a key part of the evidence gathering process, which normally occurs at the individual's first appointment at the Premium Service Centre. The Taskforce aims to complete the decision-making process within two weeks of all the evidence being gathered. Usually this will be from the point that biometrics are taken, although in some cases further evidence is supplied by the applicant or other sources after this point. Some decisions will fall outside these timescales due to their complexity, but for those completed within two weeks the vast majority have been completed on the same day.

Numbers of decisions have reduced during July as we move through the outstanding applications made pre-Windrush Scheme launch. These were more complex cases which required more detailed information gathering before we were able to issue documentation to the individuals, hence a greater number of these decisions took longer than two weeks.

Month	Decided within 2 weeks of biometric enrolment	Decided beyond 2 weeks of biometric enrolment	Total (by month)
Apr-18	140	0	140
May-18	1,265	26	1,291
Jun-18	590	115	705
Jul-18	15	121	136
Total	2,010	262	2,272

The Windrush Scheme – in-country applications

On 24 May, the Home Secretary laid a Written Ministerial Statement setting out the Windrush Scheme, which ensures that members of this generation, their children born in the UK and those who arrived in the UK as minors will be able to apply for citizenship, or various other immigration products, free of charge. The scheme came into force on 30 May.

The following section includes data on the number of individuals granted under the scheme, as well as the nationality of those individuals and their date of arrival in the UK.

Number of individuals granted under the Scheme

Month	Number of individuals granted under the Scheme
May-18	0
Jun-18	584
Jul-18	881
Total	1,465

Nationality of those granted under the Scheme

Nationality	May-July 2018
Jamaica	722
Barbados	132
India	69
Grenada	64
Trinidad & Tobago	59
Other Nationalities	419
Total	1,465

Date of arrival in the UK for those granted under the Scheme

Month	Arrived before 1 January 1973	Arrived on or after 1 January 1973	Family Member	Not recorded	Total (by month)
May-18	0	0	0	0	0
Jun-18	527	30	27	0	584
Jul-18	786	31	61	3	881
Total	1,313	61	88	3	1,465

The Windrush Scheme – overseas applications

Since the launch of the Windrush Scheme, the Taskforce also received applications overseas, albeit in much smaller volumes than from people in the UK. We continue to work through these applications, and the following table details the types of documentation granted to date:

Period	Granted Right of Abode	Granted Returning Residents Visa	Granted Visit Visa	Total
May to July 2018	0	19	10	29

Publication of revised Windrush Scheme and Guidance

I am pleased to inform you that I am publishing a clearer and easier to understand version of the Windrush Scheme and Guidance. This updated version will not only make it easier for case workers to decide applications but more importantly it will make it clearer to the Windrush generation what they may be eligible for.

My department has made a number of consistency changes to the Windrush Scheme and Guidance to achieve this, but I would like to stress that these changes have been made purely for clarifying who is and isn't eligible under the scheme to better aid applicants and Home Office staff dealing with applications. It is not to restrict the eligibility of the Scheme or to introduce additional burdens on those who are eligible under the Windrush Scheme.

I want to make sure that we are getting our decisions right so I have directed the department to set up an internal review process, and the Guidance now makes it clear that all applicants, be they overseas or in-country, have an opportunity to seek an internal review by a case working unit independent of the Windrush Taskforce. These reviews will not be limited to information that was available to the original case worker. If new information and evidence is presented to the reviewer then they will consider it.

In terms of the Scheme, there are three key changes:

Firstly, I am clarifying the position of people with the Right of Abode and their children: those who hold Right of Abode and are able to demonstrate strong ties to the UK will be exempted from the requirement to sit the Knowledge of Language and Life test. Applicants who hold Right of Abode but live overseas, will be able to obtain a free Certificate of Entitlement which confirms their status.

I am making clear who is and isn't a Commonwealth citizen for consideration under the Scheme, again this is simply a clarification and is already clearly set out in Statutory Instrument I laid in Parliament on Windrush and does not make any changes of substance or exclude anyone

previously eligible from the ambit of the Scheme. This is a necessary clarification as some members of the Commonwealth, such as Rwanda, Cameroon and Mozambique, joined the Commonwealth at a much later date.

Lastly, I am making the position of children of the Windrush generation whose parents have died, explicit on the face of the Scheme: where a parent has died prior to 1 January 1973, it is sufficient that they were settled in the UK before their death for the child to be considered under the Scheme.

A number of other simplifying changes are being made. For example, I am deleting Group 3 from the published Guidance. This group of individuals – who arrived pre-1988 but post-1973 and who were settled after 1988 – are effectively covered under the same provisions of Group 4 (those who were settled pre-1988) as it is not relevant when the individual acquired settled status. I am therefore amending the tables of the Windrush Scheme groups to reflect this. This is a consistency change only and does not make any group that were previously eligible, now ineligible.

In line with your recent recommendations I have decided to publish the Windrush Guidance Document unredacted and in full.

This Government and I remain committed to providing help and support to those affected and my department continues to take a sympathetic and proactive approach to resolving applications under the Scheme.

I am placing a copy of this letter along with the revised Scheme and Guidance in the House Library.

Historical review of detentions and removals

When I appeared before the Committee in May I reported on the work conducted by my department to examine the cases of 8,000 people of Caribbean Commonwealth nationality, age 45 and over, who had been removed or deported from the UK and to identify any individuals who could have been in the UK before 1973. This initial examination found 63 people had been removed or deported. Of these, 32 related to deportations of foreign national offenders (FNOs) and 31 were administrative removals, most of which were voluntary returns. As this initial examination, which covered thousands of cases, many very complex, had been done at pace, I was clear that those numbers were not final and would be subject to change as more thorough examination of files took place. As I also said at the time, further work would also be required to look into the details of each case and establish what, if anything, had gone wrong in them.

We therefore set up a new unit to examine historical detentions and removals, but this time, in the interests of full transparency, we included cases of people who have been held at the border for further examination before being either allowed to enter the country or denied entry (these are known as “port” cases).

The unit looked at 11,800 cases of Caribbean Commonwealth nationality, born before 1 January 1973, who have been removed and/or detained by the Home Office since 2002 (when the Casework Information Database (CID) was available across the immigration system) and sought to identify any individuals where there was an indication in the record that the individual could have been in the UK before 1973.

The 11,800 cases did not include cases defined in our systems as being a “criminal case type” because as I have consistently expressed, I make a purposeful distinction between criminal and other cases. Work is ongoing to check that this is not too broad a category and as a consequence, the numbers in this report remain provisional and may change. We have commissioned independent assurance of the work to ensure that we can have confidence in our approach.

I will continue to keep the Committee updated.

Because of the change in scope described above, it is not possible directly to compare the original 63 figure to the new figures set out below. The findings are inherently complex, but I will try to set them out as simply as possible in what follows:

- The original number of 31 people who were administratively removed has gone up to 54. Two of these were enforced removals, the other 52 either left the country voluntarily (having been told that they had no right to be here) or were data matched on our systems following an outbound journey because we believed them to be here without valid leave.
- In addition, 29 people were denied entry to the UK at a port of entry and removed as a result.
- Of a total of 83 people who were removed, 31 were detained, either in an immigration removal centre (6) or at port (25).
- 9 people were detained in the UK, either in an immigration removal centre (8) or a short-term holding facility at a reporting centre (1), before being released without being removed.
- In addition, 72 people were detained temporarily – this would typically be within a range of a few minutes to a few hours at port before being allowed to enter.

Including port cases, 83 people were removed, and 112 were detained. But as 31 people were both detained and removed the total number of individuals identified as having something on their file which indicates they may have been in the UK before 1 January 1973 is 164.

Details of all 164 have been passed to the Taskforce who have started to get in touch with them.

The unit has produced case summaries for all 164 cases which are being shared with the lessons learned review for further examination. It is clear from our internal analysis of these that features of individual cases are markedly different. The way in which each individual was treated by the department, and the degree of detriment suffered, varied considerably. This is described below.

Of the 164, there are 18 people for whom there is an indication in the record that they were in the UK before 1973 and who stayed here permanently but were unable to demonstrate their continuous residence here which led to them being removed or detained in an immigration removal centre or a reporting centre.

- 11 of the 18 people voluntarily left the country, with some having been served with immigration enforcement papers informing them they had no right to be in the UK. None were held in detention.
- 7 were detained but were subsequently released without being removed.

These are the people we have so far identified whom we consider are most likely to have suffered detriment because their right to be in the UK was not recognised and therefore where the department is most likely to have acted wrongfully.

I am absolutely clear that this should not have happened and the Home Office is already working to address any wrongs done. The Home Office is already in contact with 14 of the 18 people and

will continue to reach out to the remaining 4 people to put them in contact with the Taskforce. I will write to all of them offering a full, formal apology and signposting them to the compensation scheme. Should any of the 11 people who left the UK wish to return (a few are already here), they will be supported to do so. We have already supported one such individual.

Of these 18, 4 were removed and 2 detained before May 2010 and 7 were removed and 5 detained after 2010.

Of the remaining 146 people:

- 74 people have an indication on the record that they were in the UK before 1973, but appear to have then left the UK to reside overseas for more than two years, thereby losing their entitlement to indefinite leave to remain. They include people who were then either denied entry and removed at the border, or were removed or detained having overstayed.
- 72 people were stopped at the border, temporarily detained in a port holding room for a brief period whilst border officials established their status, before being allowed to enter the country.

In due course we will try and contact all 164 individuals pro-actively – 52 of whom are already in touch with the Taskforce – however our initial priority is to contact all of the 18 as described above.

These cases of removal and detention have happened over many years under successive governments, with cases spread roughly equally between 2002-2010, and from 2010 onwards. Of course, no matter how long ago the removal or detention case the Home Office will do whatever it can to address anything wrongful which has been done.

Work is ongoing to review historical compliant environment sanctions and I will provide a progress report in my next monthly update.

Compliant environment banking measures

In my June update, I reiterated the immediate safeguards we put in place to protect the Windrush generation from being wrongly and erroneously impacted by compliant environment measures. We have paused pro-active data sharing with other government departments and delivery partners on data for all nationalities over 30 years old; however, we have gone further with access to financial services measures and significantly restricted pro-active data sharing with banks and building societies via Cifas (the specified anti-fraud authority), to persons subject to deportation action due to criminal activity.

These arrangements are still in place, but following our May notice to the financial sector asking them to await Home Office instructions, we issued a further notice on 8 August detailing the course of action banks and building societies must now take in relation to fulfilling legal obligations under the Immigration Act 2014 banking measures.

Windrush Compensation Scheme

I laid a written statement in the House on 19 July announcing the publication of a consultation paper on the Windrush Compensation Scheme. Details of the consultation, including how to respond, are available at gov.uk/Windrush. The consultation paper outlines proposals on the scope of the scheme and asks for views on a range of issues. This includes questions about who should be entitled to compensation, the categories of loss that should be covered by the Compensation Scheme and how the scheme should operate.

To generate awareness of the consultation, the Home Office has used a combination of channels, including the press, social media and gov.uk. We have also engaged with relevant organisations to publicise the consultation, and with High Commissions. We are working with faith leaders, community organisers, other stakeholders and volunteers to disseminate information and drive engagement with relevant communities during the consultation, particularly with those directly affected. We have emailed all Members of Parliament and those who have signed up for Windrush email updates. This outreach and engagement will continue during the consultation period and my officials are available to support any engagement events arranged by Members, to listen to people's views and answer questions about the consultation.

The consultation runs until 11 October and I want to encourage people to respond. Responses can be completed online, by post to a dedicated freepost address, or over the phone via a freephone number. Questions about the consultation, and requests for paper copies, can be put to the Home Office by email or telephone, again via the freephone number. During the consultation process I continue to receive independent advice on the design of the scheme from Martin Forde QC.

I have previously written to the Committee about action we are taking to support people in advance of the Compensation Scheme being put in place. The Home Office has identified an appropriate provider in the third sector and officials are in advanced negotiations. Our aim is to establish arrangements quickly to support those who have been in contact with the Home Office and might benefit from further, targeted assistance. I will write to you again with further details when those arrangements have been finalised, which I expect to be in the next few weeks.

We will also be ensuring that there is transparency over the Windrush Compensation Scheme. As I have made clear previously, no one applying to it will be asked to sign a non-disclosure agreement. We have identified one private law claim, which had not been considered at Ministerial level, for compensation for unlawful detention, pre-dating the dedicated Windrush Compensation Scheme, involving a member of the Windrush generation, where an NDA was signed. This is not untypical of litigation cases: for many years, and under successive governments, such clauses have been used from time to time in a wide range of litigation and the terms of such settlements are reached on the basis of agreement between the parties. However there is no question of their use in connection with the recently announced, dedicated Windrush Compensation Scheme.

The analysis that has been done of Windrush cases exposes problems which have happened over many years, under multiple governments. It is important that we take a cross party-approach which recognises the most important thing we can do is ensure the wrongs which some members of the Windrush generation have faced are put right. I look forward to further engagement with the Home Affairs Select Committee in that spirit.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Javid', followed by a comma.

Rt Hon Sajid Javid MP