



Home Office

Windrush Compensation Consultation

July 2018

Cm 9654



Home Office

Windrush Compensation Consultation

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

July 2018

Cm 9654



© Crown copyright 2018

This publication is licensed under the terms of the Open Government License v3.0 except where otherwise stated. To view this license, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at Windrushcompensation@homeoffice.gsi.gov.uk

ISBN 978-1-5286-0628-8

CCS0818284592 08/18

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office.

Contents

Foreword by Home Secretary	6
1. About this Consultation	8
2. Analysis from the Call for Evidence.....	10
3. Policy Options	14
3A – Scheme Eligibility – Who will be able to apply for compensation	14
3B – Scheme Eligibility – What losses will be eligible for compensation ...	17
3C – Scheme Operation – How the compensation scheme will operate ...	26
4. Summary of Questions Response Form	41
5. How to Respond.....	60
6. Glossary.....	63

This document can be produced in Welsh and alternative formats including large print, audio and Braille format on request.

Foreword by Home Secretary



When I became Home Secretary I made clear that my top priority is to right the wrongs suffered by anyone from the Windrush generation as a result of measures that are in place to tackle illegal immigration.

My first step has been to listen to those who have been affected, and I have heard their stories. What moves me deeply is that those accounts are so personal, people's efforts so inspiring, and that their stories convey so clearly the hurt that has been felt. People wanted to come to this country to help. They, like my own family, left their homes thousands of miles away, taking brave personal decisions to contribute to the life and prosperity of all of us in the UK. That is why I am so focused on putting this right.

The Government has announced a series of measures to help put things right. We are supporting those affected directly to gain confirmation of their immigration status. The Windrush taskforce, established in April, has provided documentation to over 2,000 people to demonstrate their right to live in the UK. We are conducting a Lessons Learned review, with independent oversight, to look at what happened and what action is needed to prevent anything like this from happening again to any group of people. And we are establishing a compensation scheme for those who have suffered loss as a result of these difficulties.

It is always important for Government to listen, and it is especially important to do so now as we start to design the compensation scheme. As a first step in making sure that we provide appropriate redress for people's losses, we issued a Call for Evidence in May, and 650 people and organisations came forward. Those responses, and the positive engagement we have had with the individuals and communities most closely affected, have been sobering but also invaluable in helping us to produce this consultation document. As has the input from Martin Forde QC, who is himself the son of Windrush parents and who has been providing independent advice and helping us to understand the experience of people who have been affected and how this should be reflected in the scheme.

The publication of this consultation marks another milestone in helping to put things right. We want to get the best possible understanding of how best to approach the matter of compensation, and this consultation is your opportunity to give us your views on some of the key design features of a compensation scheme. Once we have listened and reflected on what you tell us, we will take the final decisions and set up the compensation scheme.

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

Rt Hon Sajid Javid MP
Home Secretary

1. About this Consultation

- 1.1 This consultation paper outlines our proposed compensation scheme to help redress the impact on the Windrush generation who have faced difficulties in demonstrating their lawful status under the immigration system. The consultation period is 12 weeks from the date of launch.
- 1.2 The compensation scheme will build on the measures already introduced by the Government to right the wrongs experienced by members of the Windrush generation. A Call for Evidence¹ was published on 10 May. This was the first stage of the process for setting up a compensation scheme. Responses were invited up until 8 June.
- 1.3 We received evidence from 650 people and organisations and our analysis of their evidence and concerns is set out at Part 2 of this document. This is a key component of our overall evidence base for establishing the compensation scheme.

Invitation to Respond

- 1.4 This consultation is being led by Home Office. You are invited to read this consultation and send in your views. The response template is set out in Part 4 and information on how to respond is set out at Part 5.
- 1.5 Once we have considered the replies to the consultation, we will publish a response setting out the final design of the scheme and our associated policy.

Impact Assessment

- 1.6 It is important that we carefully assess the impacts of the scheme throughout its design and development. This will be done through an Impact Assessment.

¹ Home Office Call for Evidence was published on 10 May 2018 and closed on 8 June 2018
<https://www.gov.uk/government/consultations/windrush-compensation-call-for-evidence>

1.7 The Impact Assessment will be kept under review as part of this consultation process and as responses are received and analysed. An Impact Assessment will be published alongside the final policy.

Equality Impact Assessment

1.8 The Public Sector Equality Duty (PSED) places a duty on public bodies and others carrying out public functions. The PSED is set out in section 149 of the Equality Act 2010, and it applies across Great Britain to Government Departments².

1.9 It aims to ensure that public bodies have considered, and continue to consider, the three aims of the PSED throughout the development of policies. These aims are:

- **Eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **Advance equality of opportunity** between people who share a protected characteristic³ and people who do not share it; and
- **Foster good relations** between people who share a protected characteristic and those who do not.

1.10 We have considered these aims as part of the ongoing policy development and scheme design and this consultation forms part of that development cycle.

1.11 The expected equalities impact of the compensation scheme will be detailed in the 'Equalities and the Public Sector Equalities Duty' section of the Impact Assessment when it is published alongside the final policy.

1.12 We welcome any evidence on the equalities impacts which will form part of the final consideration of the policy and a question on this subject appears under Part 3C.

² It also applies to other public bodies listed in Schedule 19 to the Act and to other organisations when they are carrying out public functions

³ Protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race (includes ethnic or national origins, colour or nationality); religion or belief (includes lack of belief); sex; and sexual orientation

2. Analysis of Call for Evidence

Background

- 2.1** As a first step to establishing a compensation scheme, we launched a Call for Evidence to gather relevant information from those affected by difficulties in establishing their status within the immigration system.
- 2.2** The Call for Evidence was published on 10 May 2018, and 650 responses⁴ were received by the closing date of 8 June. The detail provided in the responses about the losses they had experienced varied. We are separately also reviewing all the responses received since the closing date.
- 2.3** As part of the Call for Evidence, we also met a number of individuals and organisations with links to affected communities, including those representing faith groups.
- 2.4** The Call for Evidence asked five questions:
- Please can you tell us about your personal background and what went wrong for you?
 - How did that affect you, both in practical terms and more generally?
 - When did you first know there was a problem?
 - What kinds of losses did you experience, as a direct or indirect result of the problems you encountered?
 - What do you think we need to do, in terms of a compensation scheme, to put it right?

⁴ For the purposes of this analysis we have analysed multiple contacts from the same individual as one response, but a single response on behalf of several individuals has been counted as several responses.

Summary of Responses⁵

2.5 Respondent characteristics

There were three main groups of respondents:

- 68% of respondents were referring to their own experiences;
- 14% were responding on behalf of a family member;
- 16% were from agents such as Members of Parliament responding on behalf of constituents, or from lawyers representing clients.

Of the respondents who provided information relating to their current place of residence (394), 12% were living outside the UK whilst 88% were UK residents.

2.6 Country of birth and year of arrival

- Of those who reported their country of birth (455), 9% were born in the UK and 89% were born in other Commonwealth countries.
- Of those born outside the UK who provided their year of arrival (361), 83% arrived in the UK before 1973.

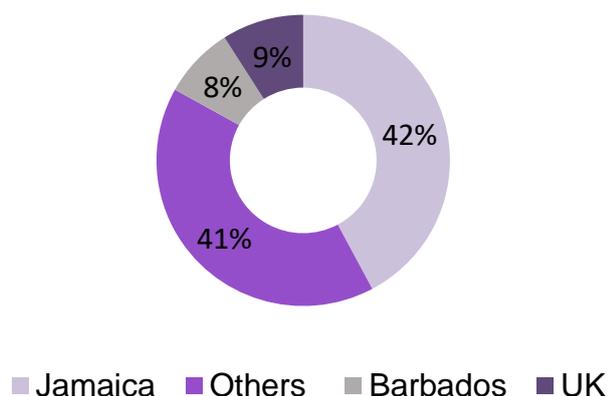
Table 1: Country of birth group and period of arrival in the UK

	Pre 1973	1973-1988	post 1988	Unknown arrival period	UK born	Total	% of known country of birth
Commonwealth total (non-UK)	297	45	16	49	n/a	407	89%
Caribbean	244	20	11	32	n/a	307	67%
Other	53	25	5	17	n/a	100	22%
UK	n/a	n/a	n/a	n/a	41	41	9%
Non-Commonwealth	3	0	0	4	0	7	2%
Total	300	45	16	53	41	455	100%
% of known arrival period	83%	13%	4%				

- Of those who provided their country of birth, 42% were from Jamaica. The UK and Barbados were the next largest country of birth groups (9% and 8%, respectively).
- No other country of birth was mentioned by more than twenty responses.

⁵ Figures presented have been calculated by coding content of open text responses.

Figure 1: Country of birth of the 455 responses which included this information



2.7 What sort of impacts have been reported?

Table 2: Primary categories of loss/impact as a proportion of responses specifying a loss/impact

Emotional distress	403	68%
Direct costs related to confirming correct immigration status	368	62%
Loss of income ¹	367	62%
Inability to travel	153	26%
Access to public services	141	24%
Access to infrastructure	50	8%
Detention and/or removal	39	7%
<i>Total Respondents</i>	592	

¹ including loss of employment and access to benefits.

Note: Percentages do not total 100% as multiple impacts were reported

2.8 Almost all responses (91%, 592) referred to impacts they had experienced, and three-quarters (74%) of all responses referred to multiple impacts.

2.9 The most common reported impacts included⁶:

- **Emotional Distress** due to an inability to confirm their immigration status was reported by 68% of responses. Over a quarter of responses that referred to an impact mentioned a detrimental effect on family life;

⁶ Multiple impacts were reported by many responses so total percentage of impacts will not add up to 100% and will be greater than the number of responses.

- **Direct costs related to confirming immigration status** was mentioned by 62% of responses. Most commonly this referred to the fees from unsuccessful applications to Home Office;
- **Loss of income** was reported by 62% of responses, referencing barriers to employment and/or access to benefits;
- An **inability to travel** was referred to by 26% of responses, which commonly related to being unable to leave the country through fear of denial of re-entry;
- **Difficulties accessing public services** was mentioned by 24% of responses. Housing and NHS services were mentioned most commonly (16% and 7% of responses referring to an impact, respectively);
- **Difficulties accessing infrastructure**, such as bank accounts and driving licences, was reported by 8% of responses;
- **Detention and/or removal** was reported by 7% of responses.

When did losses begin?

- 2.10** Around half of responses (338) specified when individuals first started to experience losses. Of those who did, 52% reported experiencing losses after 2010, 28% between 1999-2010, and the remaining 20% started experiencing losses before 1999.

Comments on the Compensation Scheme

- 2.11** The following themes emerged in responses to the remit of a compensation scheme:
- Compensation payments should be timely where respondents have a clear case;
 - There needs to be a flexible approach to calculating compensation;
 - Responsibility for documenting or proving impacts associated with a lack of documentation should not fall solely on claimants; and
 - Legal assistance should be offered to all claimants to enable them to make the correct compensation claims.

3. Policy Options

A. Scheme Eligibility – Who will be able to apply for compensation

- 3.1** Establishing a compensation scheme is one of the important ways in which the Government will make amends for the difficulties experienced by those of the Windrush generation who have encountered problems in demonstrating their lawful immigration status.
- 3.2** To create, set up and run the scheme, we need to decide upon a more detailed set of rules that will determine exactly who will be eligible to apply for compensation. This is to ensure that compensation is paid to the right people. The section that follows on eligibility forms one of the three important elements of this consultation (the ‘Who’, the ‘What’ and the ‘How’).

Eligible Cohorts

- 3.3** In recognition of the problems that they have faced, the Government has established a Windrush Scheme⁷, operated by the Windrush Taskforce⁸, to assist people in establishing their lawful immigration status⁹.
- 3.4** We believe that two principles underpinning the compensation scheme should be fairness and simplicity. In view of the fact that the Government has already established the Windrush Scheme, and Windrush Taskforce, we think the fairest and simplest approach is to align eligibility for compensation with those who are or would be eligible for help through the Windrush Scheme.
- 3.5** We propose to set the eligibility of the compensation scheme so it is targeted towards those who have experienced problems despite coming to the UK many years ago.
- 3.6** However, the compensation scheme is not intended to be a general compensation scheme for anyone who has suffered difficulties demonstrating their immigration status.

⁷ The Windrush Scheme details, guidance and application forms can be found here; <https://www.gov.uk/government/publications/undocumented-commonwealth-citizens-resident-in-the-uk>

⁸ ‘Windrush Taskforce’ and ‘Windrush Scheme’ are set out in the Glossary in Part 6

⁹ ‘lawful immigration status’ is defined in the Glossary in Part 6

Those people eligible for assistance under the Windrush Scheme belong to a particular group who have contributed so much to the country but, through no fault of their own, have been caught up in immigration measures designed for illegal migrants.

3.7 We therefore propose that the eligibility criteria for this compensation scheme mirrors the eligibility criteria for the Windrush Scheme.

3.8 Below are some non-exhaustive examples of people who are eligible for help under the Windrush Scheme and would therefore be eligible to make a claim for compensation.

Example 1:

- Anyone of any nationality who arrived in the UK before 31 December 1988 and is lawfully settled in the UK is eligible for help under the Windrush Scheme and would therefore be eligible to make a claim for compensation under the compensation scheme. However, anyone who arrived after 1988 is not eligible under the Windrush Scheme and would therefore not be eligible to make a claim for compensation.

Example 2

- Certain children of the Windrush generation are eligible for help under the Windrush Scheme, for example, children born in the UK. Some will automatically be a British citizen (those born before 1983 and those born to a British citizen or a parent settled in the UK) and some will be eligible to register as a British citizen. In addition, a child of a Commonwealth citizen¹⁰ who was settled in the UK before 1 January 1973, who was born outside the UK and who came to the UK before they were 18 is eligible for help under the Windrush Scheme. Children who are not eligible for help under the Windrush Scheme would not be eligible to make a compensation claim.

Example 3

- In terms of eligibility for help under the Windrush Scheme for people who are outside the UK, this applies, predominantly, to Commonwealth citizens who were settled in the UK before 1 January 1973 but who left the UK and whose right to be in the UK has since lapsed. Those who can establish close and continuing ties with the UK are eligible for help

¹⁰ 'Commonwealth Citizen' is defined in the Glossary in Part 6

under the Windrush Scheme and so would be eligible to make a compensation claim. Those who are outside the UK and do not fulfil this criteria will not be eligible under the Windrush Scheme and would therefore not be eligible to make a claim for compensation.

3.9 It is important to note that proof of eligibility alone will not be sufficient to be compensated; as set out below, we will need to establish the nature of any loss and consider the evidence in support of that.

1a. Do you think that eligibility for the compensation scheme should be aligned with those who are eligible for help through the Windrush Scheme?

**Yes No Don't
know**

1b. If no, are there additional groups that you think should be eligible?

1c. If no, are there groups that you think shouldn't be eligible?

Existing lawful immigration status

3.10 As a first step in establishing eligibility, we will need to confirm, either from the applicant or the Windrush Taskforce, that the applicant is eligible to apply for compensation. Where the applicant has not yet applied for or received confirmation of their immigration status and they do not wish to apply for a document under the Windrush Scheme, we propose they will need to supply us with the necessary information for us to liaise with the Windrush Taskforce on their behalf in order for us to establish what their immigration status is.

B. Scheme Eligibility – What losses will be eligible for compensation

- 3.11** The second section of this consultation sets out proposals for the types of loss which we think should be eligible for compensation. (Questions concerning how payments might be calculated, and what evidence might be required, are covered in section C.)
- 3.12** The Call for Evidence highlighted a wide range of potential losses, including both financial and non-financial. We have separated the types of loss into a number of different categories as set out below.

Costs associated with confirming immigration status

Fees

- 3.13** The Call for Evidence demonstrated that many respondents believe a compensation scheme should compensate for any fees in connection with an application to Home Office to secure their immigration status.
- 3.14** We believe that where any previous application to secure lawful immigration status was successful, the compensation scheme should not compensate for any fees. This is because the payment of fees for a successful application does not represent a loss.
- 3.15** However, we believe that where any fees were paid by the Windrush generation for a previous application (or applications) in connection with evidencing or securing their immigration status, and those applications were unsuccessful, these fees should be regarded as a loss that can be compensated by the scheme. In line with the scope of the Windrush Taskforce, we think that this should exclude any fees associated with any unsuccessful passport applications.

Incidental Costs

- 3.16** When making a previously unsuccessful application, a claimant may have had to pay for supplementary items (such as fees for copies of official documents or having documents certified) associated with collecting and presenting the evidence necessary to secure lawful immigration status, before the Windrush Taskforce was established.

3.17 Where a claimant can evidence such incidental costs which fall within the compensation scheme we believe they should be compensated.

Legal Costs

3.18 We understand from the Call for Evidence that in trying to secure their lawful immigration status, some claimants paid for legal assistance.

3.19 We believe that it may be appropriate to consider compensation for legal costs that were paid in connection with previously unsuccessful immigration applications. However, to ensure payments for legal costs are not excessive or become disproportionate to the amount the claimant may be entitled to, we propose to cap compensation for legal costs, at a level which will be established as part of the final scheme design. This category would not include legal costs incurred in applying to the compensation scheme.

Q2. Do you think claimants should be able to apply for compensation for:	Yes	No	Don't know
Home Office fees for unsuccessful immigration applications			
Incidental costs relating to an unsuccessful immigration application			
Legal costs relating to an unsuccessful immigration application			

Loss of Income

Employment

3.20 A significant proportion of responses to the Call for Evidence reported problems accessing employment. Many responses have set out that an individual has had difficulty securing a job as a result of being unable to provide evidence of lawful immigration status, and been unable to take up an offer of employment.

- 3.21** Some respondents reported losing an existing job as a result of their employer's application of the immigration rules. Individuals could also have had their employment affected by other immigration measures, such as leaving the UK and being unable to return because they were unable to provide the necessary documentation to re-enter the country.
- 3.22** We think that losses arising directly from problems accessing employment, or losing employment, as a result of being unable to demonstrate lawful immigration status represent a type of loss that should be addressed under the compensation scheme.
- 3.23** Some respondents felt that problems associated with demonstrating their lawful immigration status had affected them by losing future opportunities such as progression through a career. We believe this type of loss would be difficult to evidence and if it is to be included in the compensation scheme, we think it should be considered as an exceptional circumstance.
- 3.24** Where an individual experienced loss as a result of employment problems (within 3.22 above), the scheme should consider the overall benefits associated with such employment, including, for example, any consequential impact on pension.

Q3. Do you think compensation should be given when the following losses can be demonstrated as a result of being unable to demonstrate immigration status?	Yes	No	Don't know
Direct loss of income through termination of employment			
Direct loss of income through an inability to secure employment			
Lost opportunities such as career progression or future employment			

Statutory Benefits

- 3.25** Responses have been received in the Call for Evidence detailing where a claimant has reported being denied access to statutory benefits as a result of being unable to provide evidence of lawful immigration status.

- 3.26** We believe that where a claimant has been denied benefits as a result of being unable to demonstrate their lawful immigration status, this loss should be covered.
- 3.27** We are committed to working closely with other Government Departments, where permitted by the claimant, to ensure the process is as easy and straightforward as possible for the claimant to receive an appropriate award.

Detention, Removal and Travel

- 3.28** This section outlines our proposals concerning compensation for detention and removal from the UK, and prevention of travel.

Detention or Removal from the United Kingdom

- 3.29** The issue of detention or removal by the immigration authorities did not appear as a strong theme from the responses to the Call for Evidence. Nevertheless we believe this should be considered by the compensation scheme for any eligible claimants who have found themselves in these circumstances.
- 3.30** There could be other circumstances where an eligible individual left the UK following an adverse immigration decision or the notification of imminent enforcement action. We believe that, in principle, this is a scenario that should be eligible for compensation, but it will be particularly important for the scheme to consider evidence of these circumstances.
- 3.31** There may be other circumstances where an individual chose to leave the UK voluntarily, but this was not as a result of an adverse immigration decision or pending enforcement action. We do not believe compensation should be paid in this scenario, as it is difficult to characterise this as a loss experienced by the claimant.

Q4. Do you think compensation should be given for the following impacts resulting from an inability to demonstrate immigration status?

Yes No Don't know

**Removal
Detention
Voluntary departure from the UK due to imminent enforcement action
Voluntary departure from the UK due to refused immigration decision**

Denial of Exit or Re-entry to the United Kingdom

- 3.32** Separate to any losses associated with leaving the UK, the responses to the Call for Evidence also highlighted some cases where people reported leaving the UK but experienced problems when trying to return (or attempting to enter another country), due to not having the correct travel documentation or immigration status.

- 3.33** In addition, some responses to the Call for Evidence highlighted the fact that some individuals felt effectively unable to exit the UK, for example, foreign travel or to visit friends and family, through knowledge or fear that they would be refused re-entry due to not having the necessary travel documentation or immigration status.

Q5. Do you think compensation should be given for the following impacts resulting from an inability to demonstrate immigration status?

Yes No Don't know

**Denial of re-entry to the United Kingdom
Anticipation of denial of re-entry to the United Kingdom preventing travel**

Denial of Access to Public, Private and other Services

- 3.34** The Call for Evidence has provided details of some individuals who reported being unable to access a range of other services due to not being able to demonstrate lawful immigration status and the application of immigration rules.
- 3.35** Such services identified from the Call for Evidence include:
- Accessing free National Health Service care;
 - Accessing social and/or private housing;
 - Securing Post-18 education;
 - Obtaining a Driving Licence; and
 - Opening a Bank Account.
- 3.36** We believe claimants should be able to submit claims for losses experienced from being denied access to these types of services as a result of being unable to evidence lawful immigration status.
- 3.37** We are committed to working closely with other Government Departments and organisations, where permitted by the claimant, to ensure the process is as easy and straightforward as possible for the claimant.

Q6. Do you think compensation should be given to those who have been prevented from doing the following due to difficulties demonstrating their immigration status?

	Yes	No	Don't know
Accessing free National Health Service care			
Accessing social housing			
Accessing private housing			
Accessing post 18 education			
Obtaining a driving licence			
Opening a bank account			

Impact on Normal Daily Life

- 3.38** The majority of respondents to the Call for Evidence reported some impact on their ability to lead a normal daily life, as a result of their difficulties in securing lawful immigration status.
- 3.39** While this is difficult to quantify as a financial loss, respondents described a range of experiences. In some cases, respondents explained that they believed the uncertainty of their situation had caused or contributed to significant mental and physical health issues, including stress, anxiety and depression. In other cases, respondents described the effect as lasting for a more limited period and characterised it as mild stress or annoyance.
- 3.40** We believe the compensation scheme should take account of these impacts that many respondents to the Call for Evidence reported feeling, and that any compensation should be based on the severity of the impact this has had on their daily lives. Where a claim is submitted for a high value of compensation, to reflect a particularly severe level of impact, we believe it will be reasonable to seek a proportionate level of evidence to support the claim.

Q7a. Do you think the compensation scheme should include the impact on normal daily life as a loss?

**Yes No Don't
know**

Q7b. How should the compensation scheme take account of the different experiences of individuals in terms of the type and severity of any impact?

Relative severity of losses

3.41 Paragraphs 3.13 to 3.40 above set out a wide variety of different types of losses. As well as seeking views on whether these are the right types of losses for which we should compensate affected individuals, we would like to use this consultation to seek views on the relative scale of these losses. This is so that we can design a scheme that matches the payments we make with what people feel are the most significant types of losses that individuals have experienced.

Q8a. The table below summarises the different types of losses that the compensation scheme may compensate individuals for. Please give each a rating from 1 (not important) to 5 (very important) based on how important you think it is that the scheme covers this loss:

Loss	Rating
Fees from unsuccessful immigration applications to Home Office	
Incidental and legal costs from unsuccessful immigration applications	
Employment	
Benefits	
Detention or removal	
Voluntary departure from the UK	
Denial of re-entry to the UK	
Denial of travel	
Denial of access to free NHS care	
Denial of access to housing	
Denial of access to post-18 education	
Loss/ Denial of driving licence	
Loss/ Denial of access to a bank account	
Impact on normal daily life	

Q8b. Do you think the proposals contained in this section have captured the correct type of losses?

Yes	No	Don't know

Q8c. Are there any additional losses that you think should be included? Please state

Q8d. Are there any losses that you think should not be included? Please state

Backdated Claims

- 3.42** In our Call for Evidence, we asked respondents to provide us with details of when they first experienced problems connected with uncertainties over their immigration status.
- 3.43** Where people supplied us with this information, some reported experiencing a relatively recent loss while others had losses which dated back over a number of years.
- 3.44** We propose to accept compensation claims for losses experienced at any point in the past. We think it is reasonable to ask claimants for proportionate evidence where they might be claiming significant losses from some time ago, but we are committed to working closely with other Government Departments, where permitted by the claimant, to ensure the process is as easy and straightforward as possible for the claimant.

Q9a. Do you think losses experienced at any time point in the past should be covered by the compensation scheme?

Yes	No	Don't know

Q9b. Please explain the reasons for your response to Q9a below.

C. Scheme Operation – How the compensation scheme will operate

3.45 The third element of this consultation sets out the broad proposals for how we think the compensation scheme should operate, from the initial application to the calculation and administration of any payment.

Applications

3.46 It is important that the compensation scheme is easily accessible for claimants. The responses to the Call for Evidence suggested that it would be appropriate to offer claimants a range of options for how to access the scheme, and not limit these to online. Therefore, we propose to accept both electronic and paper applications from claimants.

3.47 We also understand from the Call for Evidence that some claimants made use of assistance in providing their responses. They may, therefore, also need help with any application for compensation. We believe that the scheme needs to provide assistance so that all who are eligible are able to apply.

Q10a. Do you think the scheme should accept both postal and online compensation claims?

Yes	No	Don't know

Q10b. Do you think claimants should be offered assistance in completing their application?

Yes	No	Don't know

Q10c. If yes to 10b, who do you think should be offered assistance?

All potential claimants	
Specific groups (please state)	
1.	
2.	
3.	

Q10d. If yes to 10b, what assistance should be provided?

--

Evidencing Claims

- 3.48** When considering claims, the scheme will need to seek and validate evidence in support of the application. Wherever possible and subject to the claimant's consent, the scheme will join up with other Government Departments and Public Bodies to collect that evidence on the claimant's behalf in order to minimise the burden on claimants.
- 3.49** However, there will remain a need to ask claimants for certain evidence in support of their applications. We will aim to keep this as straightforward and proportionate as we possibly can, but we must also ensure the scheme is only available to genuine claimants.
- 3.50** In the first instance, claimants will be asked to provide confirmation of their identity and information to confirm their lawful immigration status. As described above at paragraph 3.10, we think as a first step the lawful immigration status of a claimant will need to be established before a claim for compensation can be assessed. We also think it is fair to validate identity in order to ensure claims are considered for genuine claimants.
- 3.51** There may also be circumstances where we might need to contact a claimant to get more information about their claim. Where this is necessary, and subject to the claimant's preference, we propose to use telephone calls or possibly face-to-face conversations.

Calculating Payments

- 3.52** We understand that each claim received under the scheme will have its own unique set of circumstances and we are determined to create a scheme that works for everyone who is eligible.
- 3.53** Some losses will have a known value, for example, fees that have been paid. Other losses will not have a specific value attached, such as anxiety and distress. With that in mind, we are proposing that the scheme includes different approaches to calculating payments, dependent on the type of loss, as explained further below.
- 3.54** We believe this approach will achieve a balance between simplicity, fairness, speed of case consideration and accuracy, addressing the individual aspects of each case.

Compensation for a known value of loss

3.55 The types of loss which could be considered for a payment based on a known value could include where the claimant has:

- Lost access to employment and can evidence losses of salary or other employment benefits;
- Lost access to statutory benefits;
- Fees and other costs relating to unsuccessful applications that are eligible to be compensated.

'Tariff Style' Approach

3.56 In the context of a compensation scheme, a 'tariff' is a schedule that lists fixed amounts of payments to be made against different categories or levels of loss. The types of loss which could be considered for a tariff style approach could include the following where the claimant has:

- been denied rights or opportunities that a claimant would have otherwise been able to pursue or take up;
- been detained or removed;
- been denied access to free NHS care;
- been denied access to other services;
- experienced an impact on normal daily life.

Q11. Do you think it is right that the compensation scheme uses a combination of different calculation methods for determining compensation payments?

Yes	No	Don't know

Q12a. Do you think compensation for a known value of loss should be considered where the claimant has:

	Yes	No	Don't know
lost their job and can evidence salary and pension foregone?			
been denied access to benefits?			
incurred costs and fees that are eligible to be compensated?			

Q12b. If you have answered no to any of the losses in Q12a, please explain why.

Q13a. Do you think compensation should be calculated on a tariff style approach where the claimant has:

	Yes	No	Don't know
foregone rights and opportunities a claimant would have otherwise been able to pursue or take up?			
been detained or removed?			
been denied free NHS care?			
been denied access to other services?			
experienced an impact on normal daily life?			

Q13b. If you have answered no to any of the losses in Q13a, please explain why.

Discretionary Awards

- 3.57** We think it would be appropriate for the scheme to have a discretionary element so that some payments could be calculated based on exceptional individual circumstances that will be outside the scheme rules. This might relate to the eligibility of the claimant and/or the loss being claimed for. The award of such payments would need underpinning with robust guidance for claim assessors as well as transparent governance.
- 3.58** We think this is necessary in recognition of the very different nature of responses to the Call for Evidence and to allow for the possibility that there may be types of loss that we have not considered.

Q14a. Should the scheme have a discretionary element to make payments for circumstances not covered by the scheme rules?		
Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q14b. If yes, what circumstance should a discretionary element apply to?

Minimum and Maximum Amounts

- 3.59** It is important to ensure that no individual receives a disproportionately high payment from the public purse. Equally, we need to balance the need to accept low value claims against the administrative process costs of doing so.
- 3.60** We propose to place a cap or maximum amount which can be paid under the scheme in order to ensure that the payments made under the scheme can be distributed fairly across eligible claimants. Whilst we do not yet know the administrative costs of processing claims (as the final scheme has not yet been agreed), we also propose in principle to establish a minimum size of claim so as to avoid significant administrative expenditure being incurred to process low value claims. We believe that both these measures would help to avoid any excessively high payments and protect the taxpayer from processing very low value claims.

Q15a. Do you think the compensation scheme should have a minimum claim amount?

Yes	No	Don't know

Q15b. If yes, what do you think the minimum amount should be?

Q16a. Do you think the compensation scheme should have a maximum claim amount?

Yes	No	Don't know

Q16b. If yes, what do you think the maximum amount should be?

Multiple Categories of Loss

- 3.61** The Call for Evidence has highlighted various scenarios where the respondent set out that they had experienced more than one type of loss. Therefore, we expect there will be a number of eligible claimants who will evidence more than one type of loss under the scheme.
- 3.62** We propose that claimants are allowed to apply for a range of different losses for which evidence is available. However, we also propose to calculate compensation payments that take account of the full range of circumstances of the individual, rather than simply adding together the losses that might have been incurred under a variety of different headings or categories. In this way the total payment under the scheme may not necessarily be equal to the sum of all the different elements being claimed for. We believe the scheme should reserve the right to adjust payments made under multiple categories to arrive at an appropriate overall amount.

Double Recovery¹¹

- 3.63** There may be cases where a claimant has already received payments from other Departments or Organisations in respect of losses incurred as a result of not being able to demonstrate their lawful immigration status.
- 3.64** We think it is fair that where a claimant has already received compensation, they will not be able to recover the same again under this scheme. We will also reserve the right to disallow a claim in full or in part, where we discover the claimant has already been compensated.
- 3.65** In addition, after a claim has been paid under the Windrush Compensation Scheme, we propose to work with other Government Departments or Organisations to ensure that any subsequent claims made directly to them take account of any payments already made under the Windrush Compensation Scheme.

Differentiating Payments

- 3.66** An important question for consideration is the circumstances in which certain factors should be taken into account when calculating payments under the scheme.
- 3.67** We believe that the following factors could be taken account of when calculating payments:
- **The date of entry into the UK.** Whilst a range of cohorts are eligible for help, there are differences in the legal status and entitlements of people currently eligible for assistance through the Windrush Scheme. For example, those that arrived before 1973 had ‘deemed leave’¹² whereas the 1973-1988 cohort had to apply for their status.

¹¹ ‘Double recovery’ definition appears in the Glossary at Part 6

¹² ‘Deemed leave’ definition appears in the Glossary at Part 6

- **Whether or not a claimant has had previous contact with Home Office.** We believe that the scheme should take account of the degree to which a claimant attempted to mitigate their loss by contacting Home Office to try and secure the immigration documentation they needed.
- **The quality of evidence provided through any previous application.** We believe that we need to take into account the amount and quality of evidence that a claimant provided if they previously tried but failed to obtain immigration documentation.
- **How attributable a loss is to failing to demonstrate immigration status.** In some cases, the reasons why a particular loss occurred might be complex and not solely down to problems with demonstrating immigration status alone. We believe we need to try and take account of the degree to which any loss is solely or partly due to these problems.
- **Whether immigration rules were correctly applied.** It is possible that an individual has experienced a loss through an incorrect application of the immigration rules by an organisation. We believe that this is something the scheme needs to take into account when calculating payments.
- **Costs or expenses that would otherwise have been incurred.** When calculating payments, we believe that the scheme should take account of any costs or expenses that an individual would have had to pay (for example related costs such as accommodation that might have been foregone through an inability to travel).

Q17a. The list below summarises the some of the different factors that may be taken into account when calculating the amount of compensation awarded. Please give each a rating from 1 (not important) to 5 (very important) based on how important you think it is that these factors are considered:

Factor	Rating
Date of entry to the UK	
Claimant had previous contact with the Home Office	
Quality of previous applications	
Loss attributable to immigration status	
Misapplication of immigration rules	
Costs or expenses otherwise incurred	

Q17b. Please provide any comments you have on the factors that may be taken into account when calculating the amount of compensation awarded.

Non-Financial Remedies

- 3.68** The primary way in which the compensation scheme will offer redress for the losses people have experienced is through a financial award. However, the Call for Evidence responses indicated that the scheme could do more to help provide an appropriate alternative remedy.
- 3.69** This could range from a sincere apology that recognises the circumstances of the individual through to arranging ongoing support in the form of counselling where people think this would be of benefit. It could also look to explore reinstating employment, where possible and appropriate.

Q18a. Do you think claimants should be offered non-financial recompense in addition to a financial award?

Yes	No	Don't know

Q18b. If yes, which of the following non-financial recompense should be offered:

	Yes	No	Don't know
Counselling			
Letter of apology from Home Office			
Exploring reinstatement of employment (where possible and applicable)			
Other _____ (please state)			

Q18c. Do you have any comments on non-financial recompense?

Acceptance of Awards

- 3.70** We propose that, when a compensation payment has been calculated and is to be paid to the claimant, there should be a set of conditions which should apply in order to protect the integrity of the scheme and the public purse.
- 3.71** The first condition is that the acceptance of any compensation award will be in full and final settlement of a compensation claim.
- 3.72** This leads to the second condition that once the claimant has accepted the award, they will not be allowed to reapply to the scheme for the same losses. In addition, a claimant will not be able to be compensated from another Government Department or Organisation for the same loss, as set out in paragraph 3.65 above.
- 3.73** The final condition will be that the scheme reserves the right to recover any payment if any information or evidence emerges that indicates a claimant has misled or knowingly provided incorrect details.
- 3.74** The scheme would also refer to the police for prosecution any individuals who are found to be making or have made fraudulent claims. We believe these measures are important to protect the integrity of the scheme and ensure public money is directed towards genuine claimants.

Q19a. Do you think conditions of acceptance should be applied to the final compensation payment?

Yes	No	Don't know

Q19b. If yes, do you think the following conditions of acceptance should be applied?

	Yes	No	Don't know
Any compensation award is made in full and final settlement of a claim - reapplications will not be permitted			
A claimant cannot be compensated more than once for the same loss			
Payments will be recovered if it's subsequently found that the claim was fraudulent			

Q19c. If you disagree with any of these conditions of acceptance, please state why for each condition:

Any compensation award is made in full and final settlement of a claim - reapplications will not be permitted	
A claimant cannot be compensated more than once for the same loss	
Payments will be recovered if it's subsequently found that the claim was fraudulent	

Q19d. Are there any other conditions of acceptance that you think should be considered (please state)?

Review of Compensation Decisions

- 3.75** There may be occasions where a claimant does not agree with decisions made by the compensation scheme and would like such decisions reviewed. It is important to have review mechanisms in place to have confidence in the scheme.
- 3.76** We propose a claimant should have the right to have decisions reviewed at appropriate points should they not agree. In the first instance, this would be by internal review, performed by a different member of staff from the original decision maker, or a more senior member of staff, and would take place under time limits for any such review and on the basis of clear grounds for review which would be established.
- 3.77** If the first review decision is upheld, we think the claimant should be able to seek a further, independent, review of the decision. This would be undertaken by someone outside the compensation scheme.

Q20a. Do you think the claimant should be able to request a review of the compensation scheme decision if they do not agree with the outcome?

Yes	No	Don't know

Q20b. If yes, which parts of the compensation scheme decision should a claimant be able to request a review of?

	Yes	No	Don't know
Eligibility of claimant			
Assessment of evidence provided			
Amount of final award offered			
Other _____ (please state)			

Q20c. If yes to 20a, do you agree with the compensation scheme decision review process set out in the consultation?

Yes	No	Don't know

Q20d. If you've answered no to 20c, please explain why:

One-Stop-Shop

- 3.78** We are determined to make this scheme as easy and straightforward as we possibly can. With this in mind, we are committed to being a one-stop-shop for claimants who apply under the compensation scheme for losses they may have experienced from a range of interactions with another Government Departments or Organisations.
- 3.79** In order to reduce the burden on claimants, the scheme would seek to liaise with other Government Departments or Organisations, where permitted and where appropriate, to gather any evidence available to support a claim. This can also apply where a claimant has informed us that they would like our assistance with handling a claim in progress with another Department or Organisation.

Further comments

- 3.80** In this section of the consultation we have set out our proposals for who we think the scheme should compensate, what types of losses we should compensate for, and how the scheme should operate and calculate payments. We would like to offer respondents the opportunity to provide us with any other comments they might have on the scheme, or explain any of their answers further.

Q21: Do you have any further comments on the proposals for the compensation scheme set out in this consultation document? Please use the appropriate box below to log any supplementary views.

Who should be eligible

What losses should be compensated

How the scheme should run

Other comments

Q 22: Are there impacts, positive or negative, on people with protected characteristics (age; disability; race; religion or belief; sex; sexual orientation; gender reassignment; pregnancy and maternity) which should be taken into account when designing and implementing the compensation scheme?

Yes	No	Don't Know

If Yes, please specify:

--

4. Summary of Questions Response Form

We would welcome responses to the following questions set out in this consultation paper. Online completion is available at:

<https://www.gov.uk/government/consultations/windrush-compensation-scheme>

A Scheme eligibility

1a. Do you think that eligibility for the compensation scheme should be aligned with those who are eligible for help through the Windrush Scheme? (Paragraphs 3:5 – 3:10)

Yes

No

Don't know

1b. If no, are there additional groups that you think should be eligible?

1c. If no, are there groups that you think shouldn't be eligible?

B What losses will be eligible

2. Do you think claimants should be able to apply for compensation for (Paragraphs 3:13 – 3:19):	Yes	No	Don't know
Home Office fees for unsuccessful immigration applications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Incidental costs relating to an unsuccessful immigration application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal costs relating to an unsuccessful immigration application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Do you think compensation should be given when the following losses can be demonstrated as a result of being unable to demonstrate immigration status? (Paragraphs 3:22 - 3:24)	Yes	No	Don't know
Direct loss of income through termination of employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Direct loss of income though an inability to secure employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lost opportunities such as career progression or future employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Do you think compensation should be given for the following impacts resulting from an inability to demonstrate immigration status? (Paragraph 3:29 – 3:31)	Yes	No	Don't know
Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Detention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Voluntary departure from the UK due to imminent enforcement action	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Voluntary departure from the UK due to refused immigration decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. Do you think compensation should be given for the following impacts resulting from an inability to demonstrate immigration status? (Paragraphs 3:32 – 3:33)	Yes	No	Don't know
Denial of re-entry to the United Kingdom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anticipation of denial of re-entry to the United Kingdom preventing travel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Do you think compensation should be given to those who have been prevented from doing the following due to difficulties demonstrating their immigration status? (Paragraphs 3:35 – 3:37)	Yes	No	Don't know
Accessing free National Health Service care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accessing social housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accessing private housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accessing post 18 education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Obtaining a driving licence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Opening a bank account	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7a. Do you think the compensation scheme should include the impact on normal daily life as a loss? (Paragraphs 3:38 – 3:41)		
Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7b. How should the compensation scheme take account of the different experiences of individuals in terms of the type and severity of any impact?

8d. Are there any losses that you think should not be included? Please state

9a. Do you think losses experienced at any time point in the past should be covered by the compensation scheme? (Paragraphs 3:42 – 3:44)

Yes

No

Don't know

9b. Please explain the reasons for your response to 9a below.

C How the scheme should operate

10a. Do you think the scheme should accept both postal and online compensation claims? (Paragraphs 3:46 – 3:47)

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10b. Do you think claimants should be offered assistance in completing their application?

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10c. If yes to 10b who do you think should be offered assistance?

- All potential claimants
- Specific groups (please state)
- 1.
 - 2.
 - 3.

10d. If yes to 10b, what assistance should be provided?

11. Do you think it is right that the compensation scheme uses a combination of different calculation methods for determining compensation payments? (Paragraph 3:53)		
Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12a. Do you think compensation for a known value of loss should be considered where the claimant has: (Paragraph 3:55)	Yes	No	Don't know
lost their job and can evidence salary and pension foregone?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
been denied access to benefits?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
incurred costs and fees that are eligible to be refunded?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12b. If you have answered no to any of the losses in 12a, please explain why?			

13a. Do you think compensation should be calculated on a tariff style approach where the claimant has: (Paragraph 3:56)	Yes	No	Don't know
foregone rights and opportunities a claimant would have otherwise been able to pursue or take up?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
been detained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
been removed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
been denied free NHS care?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
been denied access to other services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
experienced impact on daily life?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

13b. If you have answered no to any of the losses in 13a, please explain why?

14a. Should the scheme have a discretionary element to make payments for circumstances not covered by the scheme rules? (Paragraphs 3:57 – 3:58)

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14b. If yes, what circumstance should a discretionary element apply to?

15a. Do you think the compensation scheme should have a minimum claim amount? (Paragraphs 3:59 – 3:60)

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15b. If yes, what do you think the minimum amount should be?

16a. Do you think the compensation scheme should have a maximum claim amount? (Paragraphs 3:59 – 3:60)

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16b. If yes, what do you think the maximum amount should be?

17a. The list below summarises some of the different factors that may be taken into account when calculating the amount of compensation awarded. Please give each a rating from 1 (not important) to 5 (very important) based on how important you think it is that these factors are considered: (Paragraphs 3:66 – 3:67)

Factor	Rating
Date of entry to the UK	
Claimant had previous contact with Home Office	
Quality of previous applications	
Loss attributable to immigration status	
Misapplication of immigration rules	
Costs or expenses otherwise incurred	

17b. Please provide any comments you have on the factors that may be taken into account when calculating the amount of compensation awarded.

18a. Do you think claimants should be offered non-financial recompense in addition to a financial award? (Paragraphs 3:68- 3:69)		
Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18b. If yes, which of the following non-financial recompense should be offered:	Yes	No	Don't know
Counselling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Letter of apology from Home Office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exploring reinstatement of employment (where possible and applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			

18c. Do you have any comments on non-financial recompense?

19a. Do you think conditions of acceptance should be applied to the final compensation payment? (Paragraphs 3:70 – 3:74)		
Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19b. If yes, do you think the following conditions of acceptance should be applied?	Yes	No	Don't know
Any compensation award is made in full and final settlement of a claim - reapplications will not be permitted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A claimant cannot be compensated more than once for the same loss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Payments will be recovered if it's subsequently found that the claim was fraudulent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19c. If you disagree with any of these conditions of acceptance please state why for each condition:

Any compensation award is made in full and final settlement of a claim - reapplications will not be permitted

A claimant cannot be compensated more than once for the same loss

Payments will be recovered if it is subsequently found that the claim was fraudulent

19d. Are there any other conditions of acceptance that you think should be considered (please state)?

20a. Do you think the claimant should be able to request a review of the compensation scheme decision if they do not agree with the outcome? (Paragraphs 3:75 – 3:77)

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20b. If yes, which parts of the compensation scheme decision should a claimant be able to request a review of?

	Yes	No	Don't know
Eligibility of claimant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assessment of evidence provided	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Amount of final award offered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			
<hr/>			
<hr/>			

20c. If yes to 20a, do you agree with the compensation scheme decision review process set out in the consultation?

Yes	No	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20d. If you've answered No to 20c, please explain why:

Supplementary Questions

21. Do you have any further comments on the proposals for the compensation scheme set out in this consultation document? Please use the appropriate box below to log any supplementary views. (Paragraph 3:80)

Who should be eligible

What losses should be compensated

How the scheme should run

23. Who are you responding for?

- Myself

(please complete questions 24-34)

- on behalf on an individual

(please complete questions 24-34 with that person's details. If you are responding on behalf of more than one person, please identify one person as a 'primary individual' and respond on behalf of them)

- on behalf of an organisation

(please complete questions 35-36)

24. How old are you?

- 0-15
- 16-24
- 25-34
- 35-49
- 50-64
- 65+
- Prefer not to say

25. What is your gender?

- Male
- Female
- Prefer not to say

26. What passports do you hold?

- Prefer not to say
- No passport
- A UK passport only
- A UK passport and other(s) . Please state below any other additional passports you hold:

Additional passport 1:

Additional passport 2:

Other additional passports:

- A non-UK passport (s) . Please state below any non-UK passports you hold:

Passport 1:

Passport 2:

Other additional passports:

27. Were you born in the UK?

- Yes **(please go to question 30)**
- No
- Prefer not to say

28. What is your country of birth?

29. What year did you first arrive into the UK to live?

30. Are your parents or grandparents part of the Windrush Generation?

- Yes, my parents
- Yes, my grandparents
- No
- Don't know
- Prefer not to say

31. Are you currently living in the UK?

- Yes
- No **(please go to question 33)**
- Prefer not to say

32. What region of the UK do you live in?

- London
- South East
- South West
- North East
- North West
- East Midlands
- West Midlands
- Yorkshire and the Humber
- Wales
- Scotland
- Northern Ireland
- Prefer not to say

Please go to question 34

33. What world region do you live in?

- Europe
- Africa
- Middle East and Asia
- The Americas and the Caribbean
- Antarctica and Oceania (inc. Australasia)
- Other
- Prefer not to say

34: What best describes your interest in the Windrush compensation scheme? **(please tick one)**

- I think I will be eligible for compensation	<input type="checkbox"/>
- I know someone who I think will be eligible	<input type="checkbox"/>
- Interested member of public	<input type="checkbox"/>
- Other (please state)	<input type="checkbox"/>

Respondent Characteristics Organisations

35. What is the name of the organisation you are responding on behalf of:

36. What best describes your organisation **(please tick one)**

Representative body	<input type="checkbox"/>
Legal Profession	<input type="checkbox"/>
Academic institution or think tank	<input type="checkbox"/>
Charitable organisation	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>

5. How to Respond

Home Office welcomes any comments on the proposals contained in this document.

You can download further copies of this consultation and a response form online at the following link: <https://www.gov.uk/government/consultations/windrush-compensation-scheme>

If you require any assistance with completing your response to this consultation paper, you can call our free helpline on 0800 678 1925 or email us at:

Windrushcompensation@homeoffice.gsi.gov.uk

You can submit your response in any of the following ways:

- online at the following link: <https://www.gov.uk/government/consultations/windrush-compensation-scheme>
- by email at the following e-mail address: Windrushcompensation@homeoffice.gsi.gov.uk
- by post to: **Freepost WINDRUSH COMPENSATION CONSULTATION**
 - This is a Freepost address so you do not need to put a stamp on the envelope.
 - You must write exactly this address on the envelope, including uppercase letters, and nothing else.
 - If this precise address is not used, or anything else is written on the envelope, it may not be received.

Responses must be received by 5:00pm on Friday 16 November 2018; we cannot undertake to consider any responses received after that time.

Next Steps

Following this consultation, the Government intends to:

- analyse and consider the responses;
- hold further discussions with key interested parties; and
- publish a public consultation response document.

The principles of the final policy design will reflect key areas covered in this consultation. The specific details of policy design (such as eligibility, and level of compensation awarded) will take into consideration responses to this consultation, alongside wider contextual factors, to form part of a final business case for cross-Government consideration.

Responses: Confidentiality & Disclaimer

Home Office controls the information you provide in your answers. Information is being collected and processed by Home Office, with your consent, for research purposes to inform the consultation on the Windrush Compensation Scheme policy directions. All information will be processed in compliance with the Data Protection Act 2018 and General Data Protection Regulation (GDPR).

As part of this consultation, Home Office may publish findings from the research. If we do so, we will ensure that you as an individual are not identifiable, and any responses used to illustrate findings are anonymised. Your information will not be shared with third parties. It will be retained for up to 5 years following the creation of a summary of the consultation, after which it will be destroyed. Home Office will not disclose any information you provide unless required to do so in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

Once you have submitted your response to the consultation you will not be able to withdraw your answers online. However, under the current Data Protection Act 2018 and the GDPR regime, you have certain rights to access your personal data and have it corrected or erased. You can therefore withdraw your consent to us processing your personal data at any time by contacting us directly.

You have the right to lodge a complaint to the Information Commissioner's Office about our practices, to do so please visit the Information Commissioner's Office website:

<https://ico.org.uk/concerns/>

Or by post at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Email: casework@ico.org.uk

Telephone: 0303 123 1113

Textphone: 01625 545860

6. Glossary

Page	Term	Definition
14	Windrush Taskforce	Home Office Operational Team set up to assist affected individuals to secure proof of their immigration status.
14	Windrush Scheme	New application route launched on 30 May 2018 to provide a streamlined process by which affected individuals can secure their valid immigration status.
14	Lawful Immigration Status	<ol style="list-style-type: none"> 1. a right of abode in the UK within the meaning of the Immigration Act 1971; 2. leave to enter or remain in the UK in accordance with the Immigration Act 1971 which has not lapsed.
15	Commonwealth Citizen	<p>For the Windrush Scheme, citizens of the Commonwealth countries mean citizens of the following:</p> <p>Anguilla, Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Bermuda, Botswana, British Antarctic Territory, British Indian Ocean Territory, Brunei, Canada, Cayman Islands, Cyprus (excluding the Sovereign base area), Dominica, Falkland Islands, Fiji, The Gambia, Ghana, Gibraltar, Grenada, Guyana, Hong Kong, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Monserrat, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, Pitcairn, Henderson, Ducie and Oeno Islands, Saint Helena, Ascension and Tristan da Cunha, Saint Lucia, Samoa, Seychelles, Singapore, Sierra Leone, Solomon Islands, South Africa, South Georgia and the South Sandwich Islands, Sri Lanka, St Kitts and Nevis, St Vincent and The Grenadines, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Turks and Caicos Islands, Tuvalu, Uganda, Vanuatu, Virgin Islands, Zambia, Zimbabwe.</p>
32	Double Recovery	Where a claimant is compensated for the same loss more than once.
32	Deemed Leave	Indefinite leave to enter or remain in the UK that falls within section 1 (2) of the Immigration Act 1971

ISBN 978-1-5286-0628-8
CCS0818284592