

Title: Windrush Compensation Policy IA No: HO 0329 RPC Reference No: N/A Lead department or agency: The Home Office Other departments or agencies: HM Treasury, DWP, HMRC, Department for Education, Department of Health and Social Care, Ministry of Housing, Communities and Local Government, DVLA.	Impact Assessment (IA)			
	Date: 29/01/2020			
	Stage: Implementation			
	Source of intervention: Domestic			
	Type of measure: Other			
Contact for enquiries: Amrit Bangard WindrushCompensation@homeoffice.gov.uk				
Summary: Intervention and Options				RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£19.2m	£0.0m	£0.0m	Not applicable	Not applicable

What is the problem under consideration? Why is government intervention necessary?
Some Commonwealth citizens who arrived and were settled in the UK before 1 January 1973, and their children, have been incorrectly impacted by measures put in place to tackle illegal immigration. This may also apply to individuals who were settled in the UK on or before 31 December 1988. This should not have happened, and the Government has apologised for this. It has put in place measures to ensure those affected get the documentation they need to evidence their lawful right to be in the UK and provide compensation to start to right the wrongs suffered by the Windrush generation.

What are the policy objectives and the intended effects?
The objective is to deliver an effective compensation scheme that will provide financial and non-financial redress for losses arising from difficulties evidencing immigration status and the impacts of measures in place to tackle illegal immigration. This scheme will ensure that those who are eligible and who have been impacted or suffered a loss because of these measures are compensated by the Government.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
The 'do nothing' is Option 1 - to not set up a compensation scheme. However, it does not meet the Government's objectives.
Option 2 is the Government's preferred option, to set up a compensation scheme. Option 2 was best able to meet the Government's objectives to right the wrongs suffered by the Windrush generation by developing a scheme that considers claims for a range of losses and impacts.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Oct 2024				
Does implementation go beyond minimum EU requirements?			N/A	
Are any of these organisations in scope?			Micro No	Small No
			Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Kevin Foster _____ Date: _____ 5 February 2020 _____

Summary: Analysis & Evidence

Policy Option 2

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 19/20	PV Base Year 19/20	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: -15.4	High: -23.0	Best Estimate: -19.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			35.9
High			324.4
Best Estimate			180.2

Description and scale of key monetised costs by 'main affected groups'

There is significant uncertainty surrounding the volume of claims and associated costs. Compensation and operational costs are estimated in line with the 11,500 eligible claimants planning assumption, as well as low and high-volume estimates for loss categories. Total compensation costs range from £20.5 to £301.3 million (PV) based on the volume range of 3,000 to 15,000 eligible claims. Operational costs related to staffing are estimated to be in a range of £15.4 to £23.0 million (PV) (approximately £4-6m per year). Non-staff costs and set-up costs have not been factored into the overall costs. The best estimate is the mid-point between the low and high estimates.

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			20.5
High			301.3
Best Estimate			160.9

Description and scale of key monetised benefits by 'main affected groups'

Benefits (compensation payments) relate to righting the wrongs suffered by those from the Windrush generation. Individual payments will be subject to individual assessment of claims under a tariff/actual basis on main loss categories. The total compensation payments made by government is estimated at £20.5 to £301.3 million (PV) which exactly offsets the total benefits to individuals. These are transfer payments, therefore not included in the Net Present Value. The best estimate is the mid-point between the low and high estimates.

Other key non-monetised benefits by 'main affected groups'

The Government is committed to righting the wrongs suffered by the Windrush generation who have faced difficulties demonstrating their lawful status in the UK. Providing eligible individuals with compensation to address these issues is one of a series of measures to do this. The scheme will also mitigate the risk of litigation and associated legal costs.

Key assumptions/sensitivities/risks	Discount rate(%)	3.5%
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There is limited data available and still considerable uncertainty over the volumes of those affected. To mitigate for this, the analysis uses prudent and sensible assumptions regarding the volume of the eligible cohort. Sensitivity analysis is used to test the estimates with respect to the underlying drivers (see section E for detail). Assumptions for underlying drivers differ by loss category due to the nature of each category.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:		
Costs:	0.0	Benefits:	0.0	Net:	0.0
N/A					

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The Government is committed to righting the wrongs suffered by some members of the Windrush generation because of measures that are in place to tackle illegal immigration.

Broadly this issue applies to Commonwealth citizens who arrived and were settled in the UK before 1 January 1973, and their children who were born in the UK or born outside the UK who came here lawfully on or after 1 January 1973 before their 18th birthday and have lived in the UK continuously since their birth or arrival; Commonwealth citizens who arrived and settled after 1 January 1973 but on or before 31 December 1988; and those of any nationality who arrived and settled here on or before 31 December 1988.

The “Windrush generation” usually refers to people who settled in the UK before 1 January 1973. For the purposes of this impact assessment it will be used to refer to all those eligible to apply for compensation under this scheme.

The Government has announced a series of measures to help put things right including establishing a compensation scheme for those who have suffered loss because of these difficulties. The Windrush Compensation Scheme was launched in April 2019. The Home Office has put in place a detailed set of rules to determine exactly who is eligible to claim compensation and the types of losses that might be compensated. This is to ensure that appropriate compensation payments are made to eligible people.

A.2 Groups Affected

A claim for compensation will be accepted from:

- A Commonwealth citizen who was either settled in the UK before 1 January 1973 and has been continuously resident in the UK since their arrival or has the Right of Abode.
- A Commonwealth citizen who was settled in the UK before 1 January 1973, whose settled status has lapsed because they left the UK for a period of more than 2 years, and who is now lawfully in the UK and who has strong ties to the UK.
- A child of a Commonwealth citizen parent where the child was born in the UK or arrived in the UK before the age of 18 years and has been continuously resident in the UK since their birth or arrival, and the parent was settled before 1 January 1973 or has the Right of Abode (or met these criteria but is now a British Citizen).
- A person of any nationality who arrived in the UK before or on 31 December 1988 and who has or had indefinite leave to remain who is now lawfully in the UK or a British Citizen.
- A grandchild of a Commonwealth citizen, where the parent was born in the UK or arrived in the UK before the age of 18 years and has been continuously resident in the UK since their birth or arrival, and the grandparent was settled before 1 January 1973 or has the Right of Abode (or met these criteria but is now a British Citizen).
- A Commonwealth citizen who was settled in the UK before 1 January 1973 whose settled status has lapsed [because they left the UK for a period of more than 2 years] and who left the UK, either because: they were removed; voluntarily left but were facing pending enforcement action; voluntarily left but were unable to return to the UK (due to a wrong immigration decision); or voluntarily left due to immigration status issues in the UK.
- The estate of a person who would have been eligible.
- A third party is eligible where there has been an impact on family and private life due to the difficulties experienced with immigration status and/or significant direct financial losses.

A.3 Consultation

Within Government

A public consultation which ran from 19 July to 16 November 2018, was cleared across Government before it was published. Nearly 1,500 responses were received. During development of the scheme specific departments were sighted on proposals and participated in bilateral discussions and bi-monthly cross-Government meetings. This included HM Treasury, Department for Work and Pensions, HM Revenue and Customs, Department for Education, Department of Health and Social Care, Ministry of Housing, Communities and Local Government, Ministry of Justice, Driver and Vehicle Licensing Agency, Scotland Office, Wales Office. In addition, the devolved administrations were consulted on the proposals.

Public Consultation

A Call for Evidence was published on 10 May 2018 and was the first stage in the process of setting up a compensation scheme. Responses to this were invited up to the 8 June 2018. Evidence was received from 650 respondents (both individuals and organisations). The analysis of this evidence and concerns were included in Part 2 of the consultation document.

On 19 July 2018, the Home Office published its consultation document '*Windrush Compensation Consultation*' which sought public views on proposals for the Windrush Compensation Scheme. The consultation ran for 12 weeks and was then extended for a further five weeks before closing on 16 November 2018.

The consultation document outlined key elements of the Home Office's proposed compensation scheme to help redress the impact on members of the Windrush generation who have faced difficulties in demonstrating their lawful status under the immigration system.

The consultation document "*Windrush Compensation Consultation*" was available online to the general public on the Government website¹ and in printed paper copy.

Over 1,000 leaflets highlighting the consultation were delivered via volunteers and community groups. Broadcast emails were also sent to over 2,500 individuals and there were nine posts about the consultation on Home Office social media channels. Over 2,500 paper copies of the consultation document were distributed.

A helpline number and email address were provided for those who may have required assistance completing their response. Responses could be submitted online, by email or in hard copy to a free post address.

In addition, 12 focus groups were held across the UK involving over 300 participants. These took place in: Croydon, Birmingham, Cardiff, Newport, Walsall, Woolwich, Leicester, Brixton, Wolverhampton, Reading, Coventry and Telford. The focus groups focused on four main areas: eligibility, calculating payments, types of loss and non-financial remedies.

The response to the consultation is available online on the Government website².

B. Rationale

Individuals in qualifying categories who have suffered financial and non-financial loss as a result of difficulty in demonstrating their immigration status will be eligible to apply for compensation. No other organisation will be able to organise and pay compensation in such an effective manner as government. This is a priority for the Government and the Home Secretary to right the wrongs suffered by those in the Windrush generation who have suffered as a result of the measures put in place to tackle illegal migration.

¹ <https://www.gov.uk/government/consultations/windrush-compensation-scheme>

² <https://www.gov.uk/government/consultations/windrush-compensation-scheme>

C. Objectives

The aim is to develop and deliver a scheme that:

- Seeks to compensate eligible individuals for certain financial losses they have experienced as a result of difficulty in demonstrating their lawful immigration status.
- Provides for the possibility for payment in recognition of non-financial losses including emotional suffering and other categories of non-financial loss.
- Is quick and easy to navigate for claimants, with assistance available for claimants to make their claims, with an onus on those operating the scheme to with the consent of the claimant collect evidence from other public bodies or government departments in the first instance.
- Minimises the likelihood of ineligible or fraudulent claims.
- Minimises the risk of litigation.
- Achieves maximum support and advocacy from external (and internal) stakeholder groups, through consultation on design and transparency of operation.
- Operates as cost effectively as possible while meeting the above objectives.

D. Options

Two options were considered:

Option 1 (do nothing) not set up a compensation scheme. However, this does not meet the Government's objectives.

Option 2 set up a compensation scheme.

Option 2 was presented as **the Government's preferred option** as it meets the objectives. The Windrush Compensation Scheme was launched on 3 April 2019.

The creation of a compensation scheme aims to right the wrongs suffered by those in the Windrush generation who have faced difficulty demonstrating their immigration status, through providing financial redress, and a formal letter of apology, to those who are eligible to receive compensation.

The scheme aims to recompense for specific loss categories where individuals have suffered financial and non-financial losses. Analysis has estimated costs for most of the loss categories (further details are set out page 9).

Prior to the launch of the Windrush Compensation Scheme, three options were considered. Option 3 was to have a scheme that offers a one-off payment. This option was disregarded as Option 2 was best able to meet the Government's objectives to right the wrongs suffered by the Windrush generation by developing a scheme that considers claims for a range of losses and impacts.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

The IA sets out the best estimates of policy impacts at this stage of scheme. The appraisal period is over five years of the scheme in line with HM Treasury Green Book guidance (2018). Ongoing costs are discounted by the social rate of discount (3.5%) and presented in present value terms (PV). Set-up costs that occur in year 1 only are not discounted. Estimates are given in 2019/20 prices.

Eligibility

Eligibility for receiving financial compensation for each loss category will be determined by evidential requirements, though there is flexibility to ensure that exceptional circumstances are considered where appropriate and as set out in the policy and the scheme rules.

- The eligible cohorts are covered in section A2 and are included in this analysis.

Where a claimant has received a custodial sentence of 4 or more years, a financial award may not be granted, in full or part, unless there are exceptional circumstances.

Analysis

Whilst working with slightly more information than before the scheme opened, there are still high levels of uncertainty in forecasting volumes and costs of claims. The main areas of uncertainty include;

- Limited number of decisions made - There have been limited number of decisions. Therefore, updated costs have been based on a combination of what people are claiming for and the Windrush Compensation Scheme rules, although this risks potentially overstating the cost per claim.
- Lack of data for certain cost categories - Whilst the updated analysis covers a wider range of loss categories than previously, some categories are not included due to lack of data. These include Discretionary Awards, Denial of Access to Education, Denial of Access to Banking, and private healthcare costs. This presents an upside risk on costs and will need to be monitored as further payments are made.
- Volume uncertainty – There is uncertainty around what extent the current volume of applications can be used to inform the likely number of applications the scheme will have in the future. This will be impacted by several factors including the impact of outreach activity, the impact of significant pay outs, and the potential for a surge of applications towards the end of the scheme.

The loss categories included in the Windrush Compensation Scheme are as follows:

- Immigration Application Fees
- Legal Costs
- Detention, Deportation, Removal and Return
- Loss of Access to Employment
- Loss of Access to Child Benefit, Child Tax Credit, or Working Tax Credit
- Denial of Access to Services
 - Housing
 - Health (partially updated)
 - Education (partially updated)
 - Banking (partially updated)
- Homelessness
- Impact of Life
- Discretionary Award (not currently included in the analysis)

For each of these, volumes of those eligible differ but the analysis has taken a consistent approach. This approach is:

$$\text{Total cost} = \text{Volume of eligible cohort} \times \text{proportion impacted under category} \\ \times \text{Unit cost per claim} \times \text{Duration of loss}$$

Data

The main data sources used are:

- **Census 2011**– used to inform the original planning assumption of the volumes of potentially eligible individuals.
- **Windrush Call for Evidence** – used in original estimates to assess likely impacts and when people were affected. This provides an indication of the impacts individuals have suffered but the nature of the data is that it is better used to inform and validate the estimates.
- **Operational Data** – Data on all claims made to date. This provides information on volume of claims and loss categories applied for. This has been used to inform both volume and cost estimates. For those claims which have been subject to triage we have also used details of the amounts claimed, duration of losses and the relevancy of the claim.
- **Scheme Rules** – The rules were finalised after the previous analysis had been completed. We have updated estimates and claim categories to reflect the current scheme rules. This has been used to inform cost estimates.
- **Windrush Taskforce Data** – For the work on volume scenarios we've looked at data on individuals who have been successful at the Windrush taskforce.
- **Family Resources Survey (FRS)** for 2016/17 supported by DWP and HMRC administrative data matched to the HMRC National Insurance and Pay As You Earn System to examine earnings and income³.

Volume Estimates

Our volume estimate informs both the total cost of the scheme and the operational resourcing planning. Where possible, we have used evidence and modelling to inform the number of people in scope for compensation, but there remains significant uncertainty. In the light of the number of claims received so far, we have reviewed our original volume scenarios.

The revised volume scenarios consider the following information;

- **Continuation of Current Volumes** – At the low end there is an assumption that applications are submitted at a similar rate same rate to what we are currently seeing.
- **Taskforce Grants** – Assume that some proportion of non-EU born claimants who were successful at taskforce will make a compensation scheme application.
- **Taskforce Grants (Future)** – assumes that people continue to come forward to taskforce and a proportion of those successful make compensation claims.
- **Non-Taskforce Applicants** – A proportion of claimants so far have not come through the taskforce, and the assumption is that this will continue.

Using the information outlined above, four volume scenarios have been estimated for the lifetime of the scheme. These are:

³ More information on the FRS is available at <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-201617>

- **Continuation of Current Volumes (3,000 eligible claims)** – Volumes are consistent with the current rate of claims being submitted.
- **Intermediate Volume (8,400 eligible claims)** – assumes that 75 per cent of non-EU nationals who have been granted at the taskforce will make a successful compensation claim + low future taskforce grants + low proportion of non-taskforce claimants.
- **Planning Assumption (11,500 eligible claims)** – as above assumes that 75 per cent of non-EU nationals who have been granted at taskforce grants + low future taskforce grants + non taskforce 38 per cent of total larger proportion.
- **Previous Planning Assumption (15,000 eligible claims)** – we have retained the previous planning assumption as a high scenario

The new planning assumption of 11,500 eligible claims over the life of the scheme has been used to form the central estimates of costs and volumes, as detailed in the sections below. This is above the current rate of applications but acknowledges a variety of factors that imply the rate will increase including continued outreach activity and increasing familiarity with the scheme as more payments are made. The volume of eligible claims will differ for each loss category.

Cost Estimates

The analysis provides an estimate of the overall compensation cost payable, primarily using the 11,500 planning assumption, as well as considering low and high-volume scenarios. This shows the overall volume of claims and costs and is not an annual breakdown. For the purposes of calculating the overall NPV of the scheme it is assumed the number of applications is spread equally over the remaining years of the scheme. In practice claims are likely to be spread less evenly. The cost estimates consist of compensation costs and staff costs related to the operational function.

It should be noted that compensation costs have been presented based on the range of volume scenarios set out earlier, to reflect the impact of uncertainties around the volume of claims. The operational costs are based around the planning assumption of 11,500 claims.

Whilst the compensation costs are likely to be significant, they represent a transfer from government to individuals affected. **Therefore, as the economic appraisal considers the costs and benefits to the UK economy and society, the net costs in relation to compensation are zero.** There will be a net cost to the UK of the operational function. Further details of both the compensation costs and the operational costs are set out below.

Compensation Costs

Compensation costs remain uncertain at this stage; however, analysis has attempted to indicate the scale of the associated costs using data from claims made so far and the Windrush Compensation Scheme rules.

Estimates are based on a planning assumption of **11,500** claimants, as well as low (3,000 claims) and high (15,000 claims) and intermediate (8,400) volume estimates, with varying proportions impacted for the different types of losses. Although there is still a large degree of uncertainty around the estimates, they do provide an indication of the total costs of the Windrush Compensation Scheme, and which loss categories are likely to be the most impactful. Costs for other volume scenarios are in Table H.1.

Presented below are estimates considering compensation payments that seek to reimburse claimants for their losses. These costs are presented based on the planning assumption of 11,500 claims, with the full range (3,000-15,000 claims) presented in a table at the end. As previously mentioned, Discretionary claims have not been estimated due to the lack of data. Furthermore, costs for Denial of Access to Healthcare, Education and Banking are all partially estimated.

Immigration Application Fees

These are losses associated with application fees for any one of the following types:

- a) British citizenship
- b) Certificate of entitlement to a right of abode
- c) Indefinite leave to enter
- d) Indefinite leave to remain
- e) No time limit
- f) Returning resident visa application
- g) Or a biometrics application ancillary to an application in (a) to (f) above.

In the previous Impact Assessment, estimated cost for the lifetime of the compensation scheme (based on a planning assumption of 15,000), was £19 to 28 million in present value terms (£20 to £30 million in 2019/20 prices, undiscounted).

Updated analysis uses the claims made up to end of September 2019 and reflects the scheme rules. **Take up is around 36 per cent and the average value of a claim is between £325 to £440 per claim.** Using the updated data, **whole life cost for Immigration Application Fees, is estimated to be £1.1 to £2 million, under the planning assumption of 11,500 claims.** The main drivers behind this lower estimate are:

- Lower assumed overall volume of claims: 11,500 now compared to 15,000 previously.
- Lower assumed percentage of claims for immigration application fees: 30 to 40 per cent now compared to 74 to 100 per cent previously.
- Lower assumed average cost per claim: £325 to £440 per claim now compared to £2,000 previously.

Legal Costs

Where an award has been made in respect of an immigration application fee, a contribution towards legal costs in respect of that application may be made to the claimant. The amount of contribution towards legal costs in respect of any application is limited to the lesser of the actual amount paid in respect of legal costs, and £500.

In the previous Impact Assessment, estimated cost for the lifetime of the compensation scheme (based on a planning assumption of 15,000), were: £1.9 to £4.7 million in present value terms (£2 to £5 million in nominal terms). Updated analysis uses the claims made up to end of September 2019 and reflects the scheme rules. The high-end estimates are based on the average legal costs claimed from those applications which have been triaged, this is £1,941. However, there is insufficient data to account for the cap of £500 per application therefore the unit cost could represent a high estimate of cost per claim. At the low end, we have assumed a unit cost per claim of £1,077, which is consistent with the April 2019 IA and based on average amount cited in the Windrush Call for Evidence.

Revised estimates for whole life cost are now £2.5 million to £6.7 million based on take up of 20 to 30 per cent, under the planning assumption of 11,500 claims. The main driver of the increase is the higher unit cost per claim (£1,941 compared to £1,077 previously).

Detention, Deportation, Removal and Return

The amount awarded under this category varies depending on the type and severity of harm suffered. The Windrush Compensation Scheme sets out standard payments for removal and deportation, ranging from £1,000 to £10,000, with the largest pay out for deportation. Compensation for detention depends on the duration of the detention, with no award paid out for the first 30 minutes of detention, and then a payment per hour of detention experienced after.

Previous analysis based estimated costs on historic reviews of detention and removal of individuals who were considered to be part to the Windrush cohort. Using this information costs were estimated to be between £0.4 to £3.5 million.

Updated analysis uses the claims made up to end of September 2019 and reflects the scheme rules. **Estimates for whole life cost are now £1.8 to £5.4 million based on take up of 5 to 15 per cent, under the planning assumption of 11,500 claims.** This increase in estimates are predominantly driven by there being more claims than previously anticipated.

Loss of Access to Employment

This loss category relates to loss of income due to an individual losing their employment or not being able to obtain employment due to an inability to evidence legal entitlement to work. Claims can be made under an Actual Earnings Award or a General Award, which is capped at £1,147 per month of unemployment for a maximum duration of 12 months.

Estimates presented in the previous impact assessment were based on two scenarios;

- Scenario 1 (90 per cent tariff: 10 per cent actuals) = £65 to £155 million in present value terms (£70 to £160 million in nominal terms).
- Scenario 2 (75 per cent tariff: 25 per cent actuals) = £70 to £230 million in present value terms (£75 to £235 million in nominal terms).

Fixed tariff payments were based on the upper end of the Parliamentary Ombudsman scales (£10,000). Analysis assumed that between 45 to 75 per cent of the cohort will have been impacted by loss of income.

Updated analysis uses the claims made up to end of September 2019 and reflects the scheme rules. **Whole life cost for Loss of Access to Employment are estimated to be £48 to £176 million, under the planning assumption of 11,500 claims, based on a take up of between 44 to 55 per cent.** The estimated costs have reduced significantly from the previous IA, which estimated cost to be £70 to £235 million (£65 to £230 million in present value terms). The main drivers behind this reduction are:

- Volumes – the reduction in the planning assumption from 15,000 to 11,500.
- Take Up – previously 45 to 75 per cent, compared to 44 to 55 per cent now.
- Scheme Rules – Loss of access to benefits have been separated out into a different loss category, and overall scheme rules have been more clearly established since the previous estimates.
- Offset partially by an increase in the estimate of the proportion of actual claims relative to tariff payments (high estimate 28 per cent, low estimate 15 per cent).

Loss of Access to Child Benefit, Child Tax Credit, or Working Tax Credit

Under the previous modelling, claims related to benefits were part of the access to employment analysis and included a wider range of benefits than are currently set out in the scheme rules. This has now been updated to reflect just those benefits which are payable under the Windrush Compensation Scheme rules, namely:

- Child benefit- standard tariff of £1,264 payable to all eligible claimants.
- Child tax credit- standard tariff of £2,500 payable to all eligible claimants.
- Working tax credit- standard tariff of £1,100 payable to all eligible claimants.

It is assumed that claims for other benefits will be redirected to DWP or HMRC and are not paid for under the WCS budget.

Updated analysis uses the claims made up to end of September 2019 and reflects the scheme rules. Based on the most up to date data, around 15 per cent of claimants are linked to a benefit claim that falls within the scheme rules. Due to this, take up is estimated to be between 10 to 20 per cent for eligible claims, with Working Tax Credit claims likely to be the benefit most claimed for. **Whole life cost for Benefits which fall under the WCS, are estimated to be £1.7 to £3.3 million, under the planning assumption of 11,500 eligible claims.**

Denial of Access to Housing

Denial of Access to Housing services covers not being able to access the service at all, or have that access withdrawn, due to claimants not being able to prove their immigration status. Housing services which may have been denied include, but are not limited to:

- Social housing allocations
- Emergency or temporary accommodation
- The private rented sector
- The right to buy scheme

Eligible claims are entitled to a standard payment of £1000 to compensate for the Denial of Access to Housing services.

Previous estimates just looked at social housing, carrying out analysis using financial remedy recommendations from the Local Government and Social Care Ombudsman⁴ of £150 to 350 per month depending on the severity of impact. However, due to the lack of information about the likely duration of claim, the previous analysis assumed that duration was one year on average (£1,800 to £4,200 per year). Using these assumptions, the previous analysis estimated a whole life cost of £2 to £6.3 million in present value terms (£2 to £7 million in 2019/20 prices, undiscounted), based on a planning assumption of 15,000, and a take up of 5 to 15 per cent.

Updated analysis uses claims made as of September 2019 and reflects the current scheme rules. **The Whole life cost for Denial of Access to Housing services is estimated to be between £1.7 to £2.9 million, under the planning assumption of 11,500 claims. This also assumes a take-up rate of 15 to 25 per cent.**

Denial of Access to Health

Denial of Access to Healthcare covers denial of care under the National Health Service, as well as any private healthcare costs incurred to the individual due to this denial of free healthcare. Denial of access to the NHS will be compensated with a pay out of £500, whereas reimbursement of private healthcare received in or out of the UK will be reimbursed on a case by case basis. Due to lack of data, the previous impact assessment did not estimate the cost associated with Denial of Access to Health services claims.

Updated analysis uses claims made as of September 2019 and reflects the published scheme rules. Due to lack of data there are no estimates for reimbursement claims. However, there is an assumption that anyone with an eligible healthcare claim will receive the £500 for denial of NHS services at minimum. **The whole life cost for denial of access to the NHS is estimated to be between £0.6 to £1.2 million, under the planning assumption of 11,500 claims. This assumes a take-up rate of 10 to 20 per cent.** Costs for this loss category could potentially be higher than these estimates due to the addition of private healthcare reimbursement.

Denial of Access to Education

⁴ <https://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes>

Denial of access to education covers denial of access to higher education as a home student, and reimbursement of international student fees. Denial of access to higher education as a home student shall be compensated with a pay out of £500, whereas reimbursement of international student fees will be reimbursed on a case by case basis. Due to lack of data, the previous impact assessment did not estimate the costs associated with Denial of Access to Education claims.

Updated analysis uses claims made as of September 2019 and reflects the published scheme rules. Due to the lack of data there are no estimates for claims for reimbursement of international fees. However, there is an assumption that anyone with an eligible claim will receive the £500 for denial of access to higher education at minimum. **The whole life cost for denial of access to higher education as a home student is estimated to be between £0.3 to £0.9 million, under the planning assumption of 11,500 claims. This also assumes a take-up rate of 6 to 16 per cent.** Costs for this loss category could potentially be higher than these estimates due to the addition of international student fees reimbursement.

Denial of Access to Banking

Denial of access to banking covers denial of access to banking services, which include (but are not limited to); a bank overdraft, an overdraft facility, a mortgage produce, a loan facility. This loss category will also reimburse claimants for losses which resulted from denial of access to banking services. Denial of banking services shall be compensated with a pay out of £200, whereas reimbursement of losses will be reimbursed on a case by case basis. Due to lack of data, the previous impact assessment did estimate the costs associated with Denial to Access to Banking claims.

Updated analysis uses claims made as of September 2019 and reflects the published scheme rules. Due to the lack of data, there are no estimates for claims for reimbursement of losses. However, there is an assumption that anyone with an eligible claim will receive the £200 for denial of access to banking services at minimum. **The whole life cost for denial of access to banking services is estimated to be between £0.2 to £0.5 million, under the planning assumption of 11,500 claims. This also assumes a take-up rate of 10 to 20 per cent.** Costs for this loss category could potentially be higher than these estimates due to the addition of reimbursement for losses which resulted from denial of access to banking services.

Homelessness

Homelessness refers to the state of being homeless, which is to be without access to accommodation which is reasonable for an individual to reside. These include; rough sleeping, staying temporarily in a hostel, night shelter or bed and breakfast; staying temporarily in other accommodation with poor conditions that adversely impacted their health; or squatting. Compensation for this loss category is capped at £250 per month, with a maximum award of £25,000 (equivalent to 100 months, or 8.3 years). Due to lack of data, the previous impact assessment did not estimate the costs associated with homelessness claims.

Updated analysis uses claims made as of September 2019 and the published scheme rules. **The whole life cost for denial of access to banking services is estimated to be between £7 million to £23 million, under the planning assumption of 11,500 claims. This also assumes a take-up rate of 10 to 18 per cent.** The costs are driven by the average duration of homelessness experienced by individuals who have claimed so far, with anyone claiming for a duration greater than 100 months having their claim capped at 100 months. Average duration is currently estimated to be between 25 and 45 months. Changes in this duration could have a significant impact on whole life costs for this loss category.

Impact on Life

This relates to compensation paid to individuals who have an impact on their normal daily life because of not being able to demonstrate their right to live and work in the country. The Windrush Compensation Scheme rules present six levels of impact, varying by severity of the impact on the claimant's life. Level 1, the least severe, has a payment of £250, whereas level 6, the most severe, has a payment of £10,000 or more.

In the previous Impact Assessment, analysis estimated the cost of compensation using an adapted form of the Parliamentary and Health Service Ombudsman⁵ financial remedy recommendations, applying a tariff of £2,000 per claim. Estimated costs over lifetime of compensation scheme (based on planning assumption of 15,000 claims) were: £23 to 28 million in present value terms (£25 to £30 million in 2019/20 prices, undiscounted).

Updated analysis uses claims made as of September 2019 and reflects the published scheme rules. **The whole life cost is now estimated between £21 to £29 million based on take up of 77 to 87 per cent, under the planning assumption of 11,500 claims.** The slightly lower estimated take up rate is the main driver behind the lower cost estimates, as well as the split of claims across the severity scales.

Discretionary Award

Due to lack of data, this loss category has not been included in the analysis.

Based on the above and after accounting for payments to date (treated as sunk) the estimated range of total compensation cost in present value terms over five years is approximately:

- **£79 to £231 million (based on the planning assumption of 11,500 eligible claims).**
- **£21 to £60 million (based on 3,000 eligible claims).**
- **£58 to £169 million (based on 8,400 eligible claims).**
- **£103 to £301 million (based on 15,000 eligible claims).**

⁵ <https://www.ombudsman.org.uk/organisations-we-investigate/putting-things-right/financial-remedy>

Table E.1 – Option 2, Summary of Overall Compensation Costs, Volumes and Costs, £m (PV), 2019/20 prices.

	Continuation of Current Volumes	Intermediate Volume	Planning Assumption	Previous Planning Assumption
Estimated volume of claims	3,000	8,400	11,500	15,000
1. Immigration Application Fees	0.3-0.5	0.8-1.5	1.1-2.0	1.5-2.6
2. Legal Costs	0.6-1.7	1.8-4.9	2.5-6.7	3.2-8.7
3. Detention, Deportation, Removal and Return	0.5-1.4	1.3-4.0	1.8-5.4	2.4-7.1
4. Loss of Access to Employment	12.5-46.0	35.1-128.7	48.1-176.1	62.7-229.8
5. Loss of Access to Benefits	0.4-0.9	1.2-2.4	1.7-3.3	2.2-4.3
6. Denial of Access to Housing	0.5-0.8	1.3-2.1	1.7-2.9	2.3-3.8
7. Denial of Access to Health (partial)	0.2-0.3	0.4-0.8	0.6-1.2	0.8-1.5
8. Denial of Access to Education (partial)	0.1-0.2	0.3-0.7	0.3-0.9	0.5-1.2
9. Denial of Access to Banking (partial)	0.1-0.1	0.2-0.3	0.2-0.5	0.3-0.6
10. Homelessness	1.9-6.1	5.3-17.1	7.2-23.4	9.4-30.5
11. Impact on Life	5.5-7.5	15.4-20.9	21.1-28.6	27.5-37.3
Overall estimated costs £m (nominal)	22.5-65.5	63.0-183.3	86.3-251.0	112.5-327.4
Overall estimated costs (after removing sunk costs) £m (present value)	20.5-60.1	57.8-168.7	79.3-231.0	103.4-301.3

As noted earlier, there is still significant uncertainty around the estimated costs, but this provides a sense of magnitude in terms of the likely costs.

Operational costs

Estimated operational costs are based on planning assumptions on volume (11,500 claims) and the complexity of cases. The operational staffing costs are currently estimated to cost between £4m and £6m per year, over five years (with costs for the remainder of 2019/20 pro-rated). This profile could potentially change as staffing will be flexed according to when cases come in. Non staff costs are not currently included in these estimates.

BENEFITS

The benefits of the compensation scheme are primarily non-monetary:

- The Government has been clear that members of the Windrush generation will be compensated for losses suffered as a result of not being able to demonstrate their lawful status.

- The compensation scheme has been designed to ensure that members of the Windrush generation are properly compensated for the difficulties they faced.
- The Government will also mitigate the risk of litigation and associated legal costs, which is likely to be more expensive than compensation through the scheme.
- The scheme also includes an apology.

Summary

- **Estimated total costs range from £35.9 to £324.4 million** (present value, compensation costs and operational costs), with a central estimate of £180.2 million (PV) over the same period.
- **Estimated total benefits range from £20.5 to £301.3 million** (present value). These are based on the compensation paid out and represent a transfer from government to individuals affected.
- **Other benefits of the compensation scheme are primarily non-monetary** and include righting the wrongs suffered by those who have faced difficulties demonstrating their lawful status in the UK and mitigating any litigation risk and associated legal costs.
- **Estimated Net Present Value (NPV) of the scheme ranges from -£15.4 to -£23.0 million.**
- **Estimated Business Net Present Value (BNPV) is zero.**
- **Net cost to business per year (EANDCB) is zero.**

F. Risks

As previously noted, there is still a high degree of uncertainty around the likely volume of compensation claims and the level of claims against the different loss categories, despite having data on actual claims.

Despite the number of current applications being lower than the panning assumption the balance of risk is skewed towards a higher rate of applications in the future compared to currently. This is to account for the following scenarios impacts on volumes:

- **Significant Pay Outs** – Average compensation paid out so far has been lower than expected. If higher value pay-outs start being made, this could encourage others to apply for the scheme.
- **Expansion of Outreach Activity** – Further outreach activity is still being considered, which could increase the volume of application through increased awareness for the scheme.
- **Delayed Submission of Applications** – Where there is a sharp increase in applications closer to the deadline.

As a result, the analysis uses a number of different volume scenarios ranging from 3,000 to 15,000 claims. These are outlined in Table E.1.

The resulting range of costs is wide and reflects the difficulty in estimating both the volume of claims and the claim amounts.

G. Enforcement

The Home Office has ensured it is not imposing unnecessary regulatory burdens in the development of this policy. There are no regulatory requirements in this policy, and this is therefore not applicable.

H. Summary and Recommendations

Table H.1 – Option 2, Summary of Costs/Benefits, £ million, 2019/20 prices

	Continuation of Current Volumes	Intermediate Volume	Planning Assumption	Previous Planning Assumption
Estimated volume of claims	3,000	8,400	11,500	15,000
COSTS				
Loss Categories				
1. Immigration Application Fees	0.3-0.5	0.8-1.5	1.1-2.0	1.5-2.6
2. Legal Costs	0.6-1.7	1.8-4.9	2.5-6.7	3.2-8.7
3. Detention, Deportation, Removal and Return	0.5-1.4	1.3-4.0	1.8-5.4	2.4-7.1
4. Loss of Access to Employment	12.5-46.0	35.1-128.7	48.1-176.1	62.7-229.8
5. Denial of Access to Benefits	0.4-0.9	1.2-2.4	1.7-3.3	2.2-4.3
6. Denial of Access to Housing	0.5-0.8	1.3-2.1	1.7-2.9	2.3-3.8
7. Denial of Access to Health (partial)	0.2-0.3	0.4-0.8	0.6-1.2	0.8-1.5
8. Denial of Access to Education (partial)	0.1-0.2	0.3-0.7	0.3-0.9	0.5-1.2
9. Denial of Access to Banking (partial)	0.1-0.1	0.2-0.3	0.2-0.5	0.3-0.6
10. Homelessness	1.9-6.1	5.3-17.1	7.2-23.4	9.4-30.5
11. Impact on Life	5.5-7.5	15.4-20.9	21.1-28.6	27.5-37.3
Operational Costs				
1. Staff Costs	16.7-25.0	16.7-25.0	16.7-25.0	16.7-25.0
Total Costs (PV)	35.9-83.2	73.2-191.7	94.6-254.0	118.8-324.4
BENEFITS				
Loss Categories	22.3-65.3	62.8-183.1	86.1-250.1	112.3-327.2
Total Benefits (PV)	20.5-60.1	57.8-168.7	79.3-231.0	103.4-301.3
NPV	-15.4-23.0	-15.4-23.0	-15.4-23.0	-15.4-23.0

Table H.1 outlines the costs and benefits of the Windrush Compensation Scheme. These represent overall costs for the entire compensation scheme expected over three years (the length of the compensation scheme). It should be noted that as compensation costs are treated as a transfer, the NPV is driven by the estimated operational costs. The estimated operational costs currently

only relate to the 11,500 planning assumption and cover staff costs only. There is no net cost to business. The Business Net Present Value (BNVP) is zero, as is the Estimated Annual Net Direct Cost to Business (EANDCB).

I. Implementation

Policy requirements will be communicated to all affected parties before they are implemented. The Government implemented these changes as soon as possible after the response to the consultation was published and the Compensation Scheme was announced in April 2019.

J. Monitoring and Evaluation

The Home Office will monitor the effectiveness of the compensation policy based on feedback from stakeholders and other government departments as well as through the parliamentary process (letters from MPs, Parliamentary Questions and debates) and through monitoring litigation. An independent person will be appointed to oversee the operation of scheme, reporting to the Home Secretary.

K. Feedback

The Home Office will monitor the effectiveness of the compensation policy based on feedback from stakeholders and other government departments as well as through the parliamentary process (letters from MPs, Parliamentary Questions and debates) and through monitoring litigation. In addition, an independent person will be appointed to oversee the operation of scheme, reporting to the Home Secretary.

Impact Assessment Checklist

The impact assessment checklist provides a comprehensive list of specific impact tests and policy considerations (as of October 2015). Where an element of the checklist is relevant to the policy, the appropriate advice or guidance should be followed. Where an element of the checklist is not applied, consider whether the reasons for this decision should be recorded as part of the Impact Assessment and reference the relevant page number or annex in the checklist below.

The checklist should be used in addition to [HM Treasury's Green Book guidance](#) on appraisal and evaluation in central government.

Economic Impact Tests

Statutory Equalities Duties A policy equality statement (PES) has been prepared which presents information about the Windrush Compensation Scheme and considers whether there are any parts of the Scheme that may be unfairly prejudicial against any persons with a relevant protected characteristic.	YES
Family Test The objective of the test is to introduce a family perspective to the policy making process. It will ensure that policy makers recognise and make explicit the potential impacts on family relationships in the process of developing and agreeing new policy. [Family Test Guidance]	YES