

<p>Title: Windrush Compensation Policy IA No: HO 0329 RPC Reference No: 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.</p>	Impact Assessment (IA)
	Date: 09/01/2019
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Other
	Contact for enquiries: 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
£-14.0m	£0m	£0m	Not applicable	Not applicable

What is the problem under consideration? Why is government intervention necessary?

Some people have suffered, incorrectly, because of measures put in place to tackle illegal immigration. This issue applies mainly to Commonwealth citizens who arrived and were settled in the UK before 1 January 1973 who would have had deemed leave, a person of any nationality who arrived and was settled in the UK before 1 January 1973 would also have had deemed leave and may have been similarly affected. The Government put in place measures to help these people resolve their immigration status and announced measures to assist anyone here pre-1989 who eventually settled, and children of those Commonwealth citizens here pre-1973. It also committed to a compensation scheme.

What are the policy objectives and the intended effects?

The main policy objective is to put in place an effective compensation scheme that will provide financial and non-financial redress for losses arising from difficulties evidencing immigration status and the impacts of the misapplication of measures in place to tackle illegal immigration. This scheme will ensure that those who are entitled and who have suffered a loss because of these measures are compensated by the Government. To create, set up and run the scheme the Home Office has put in place a detailed set of rules that set out exactly who is eligible to apply for compensation and the types of losses that might be compensated. The intended effect is that those who are eligible are appropriately and adequately compensated.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The alternative is Option 1 - to not set up a compensation scheme. Consideration was also given to Option 3 – a scheme that offers a one off flat rate payment. Other measures are not an option here and do not meet the Government's objectives. **Option 2 is the Government's preferred option**, to set up a compensation scheme. A consultation sought views on a range of issues from the public which were taken into consideration in the development of the policy.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Sep 2019					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope?		Micro Yes	Small Yes	Medium Yes	Large Yes
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: _____ Date: _____ January 2019

Summary: Analysis & Evidence

Policy Option 2

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:
			11.2	16.8	14.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			49
High			587
Best Estimate			318

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

There is significant uncertainty surrounding the volume of claims and associated costs. Compensation costs are primarily estimated in line with the 15,000 eligible claimants planning assumption, as well as low and high-volume estimates that are categorised into loss categories. Operational costs are currently solely based on a planning assumption of 15,000 claims and are currently estimated in excess of £4m per year over three years. Set up costs have not been factored into the overall costs. NPV best estimate is the midpoint between low and high NPV

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			37
High			570
Best Estimate			304

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

Benefits relate to righting the wrongs suffered by those from the Windrush generation who have faced difficulties demonstrating their status in the UK, therefore compensation payments are considered as benefits. Individual payments will be subject to individual assessment of claims under a tariff/actual basis on key loss categories

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

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

Key assumptions/sensitivities/risks

Discount rate

3.5%

There is little data available and considerable uncertainty surrounding the volumes of those who are affected. To mitigate for this the IA uses prudent and sensible assumptions regarding the volume of the eligible cohort, to test the sensitivity of 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 of the Windrush generation because of measures that are in place to tackle illegal immigration.

Broadly this 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 the intention to establish a compensation scheme for those who have suffered loss because of these difficulties. To create, set up and run the scheme, the Home Office have put in place a detailed set of rules that will determine exactly who is eligible to apply for 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

An application 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 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 31 December 1988 and who has or had indefinite leave to remain who is now lawfully in the UK.
- A grandchild of a Commonwealth citizen, where the parent was born in the UK or arrived in the UK before the age of 18 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

The public consultation was cleared across Government before it was published. Specific departments have remained sighted on proposals and have participated in bilateral discussions and bi-monthly cross-Government meetings. This includes 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 have been 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 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 and 12 focus groups were held, involving over 300 participants.

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. 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 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 produce a scheme that:

- Seeks to compensate eligible individuals for certain financial losses they have experienced as a result of difficulty in demonstrating their 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

Option 1 is to make no changes (do nothing).

An option to make no changes will mean not setting up a compensation scheme to recompense those who have suffered because of difficulty demonstrating their immigration status. This would mean that people would be limited to applying for the current ex-gratia scheme or litigating. This option does not meet Government's objectives to right the wrong suffered by those in the Windrush generation and is rejected.

Option 2 is to set up a compensation scheme.

The creation of a compensation scheme will aim 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. **This is Government's preferred option as it meets Government's objectives.**

The scheme has looked at and will aim to recompense for specific loss categories where individuals have suffered financial and non-financial losses. Analysis has not estimated costs for all loss categories but has focussed on those considered to be areas of high cost. These are;

- Fees and other costs relating to unsuccessful immigration applications.
- Access to the labour market.
- Legal fees.
- Impact on normal daily life.
- Access to housing.

Option 3 is to have a scheme that offers a one-off payment

An option to make a one-off, flat rate payment to all individuals who have faced difficulty demonstrating their immigration status and as a result have suffered losses. This would not recognise that different people have encountered varying levels of loss and is therefore rejected.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

The IA sets out the best estimates of policy impacts at this stage of policy development. The appraisal period is over three years (the planned length of the compensation 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 2018/19 prices.

Eligibility

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

Assuming that eligibility for the compensation scheme will be aligned with the eligibility requirements of the Windrush Scheme with three additions (as set out below), the compensation scheme will be open to those who are:

- 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 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 31 December 1988 and who has or had indefinite leave to remain who is now lawfully in the UK.
- A grandchild of a Commonwealth citizen, where the parent was born in the UK or arrived in the UK before the age of 18 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.

With the additional categories of:

- a grandchild of a Commonwealth citizen who was settled in the UK before 1 January 1973 where the parent was born in the UK or arrived in the UK before the age of 18, and the grandchild has lived continuously in the UK since the birth or arrival of the parent/estates of deceased, who have either died before the start of the compensation scheme or passed away pending their claim being settled;
- the estate of a person who would have been eligible.
- A third party, related to an individual who 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.

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

There is little data available on those who have been affected. As a result, a combination of datasets and several assumptions have been made to develop a picture of the volumes affected, the likely harms suffered and the associated costs of these harms. Due to the uncertainties in forecasting volumes and costs of claims prior to the launch of the scheme, there is inevitably a wide range of uncertainty around the estimated volumes and costs.

The total estimated cost of compensation has been considered using different loss categories. Currently, only loss categories considered to be high cost have been considered. These loss categories are:

- Fees and other costs relating to unsuccessful immigration applications.
- Access to the labour market.
- Legal fees.
- Impact on normal daily life.
- Access to housing.

For each of these, eligible volumes differ but 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 planning assumption of the volumes of potentially eligible individuals.
- **Windrush Taskforce volumes** – used alongside Census data to inform derive planning assumption.
- **Windrush Call for Evidence** – used to estimate likely impacts and when people were affected. Whilst this provides an indication of the impacts individuals have suffered, there is uncertainty around the extent to which the response provides a fair reflection of the impacts to all those affected.
- **Administrative data from the Casework Information Database (CID)** – used as part of the direct costs analysis to provide an indication of applications for Indefinite Leave to Remain (ILR), No Time Limit (NTL) and Citizenship that were refused amongst Commonwealth nationals, and the average number of applications per person. Data has only been available since 2002, therefore this have been combined with Census data to estimate volumes of people impacted.

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.

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

Volume

There is a large degree of uncertainty around the overall volumes of compensation claims that will be made, and the numbers in relation to different loss categories. Where possible, analysis underpinning the volume of the eligible cohort has used evidence and modelling, as well as evidenced judgement to inform the number of people in scope for compensation. However, due to the lack of relevant data, there is considerable uncertainty in the validity of volume estimates.

Due to these uncertainties around the volume of claims, the analysis examines a number of different volume scenarios. These are:

1. **Taskforce based volumes (5,000 claims)** – volumes are consistent with the number of people that have come through the Windrush Taskforce.
2. **Intermediate volume (10,000 claims)** – this assumes there are a number of people impacted who have not been identified by the taskforce or have been too afraid to come forward.
3. **Planning assumption (15,000 claims)** – as above assumes a large number of people impacted have not come to the taskforce. This is the volume of cases that has been used as the basis for planning the operation. This is based on 177,000 potentially eligible (Commonwealth nationals arriving pre-1988, who didn't have a passport at the time of Census 2011), multiplied by the proportion who were likely to have been refused ILR (18%) and the proportion who may have suffered harm (50%) as a result.
4. **High volumes (30,000 claims)** – a high end estimate of eligible volumes.

An initial planning assumption of 15,000 eligible claims has been estimated. This forms the central estimate and there are estimated costs based on the volumes outlined above.

The volume of eligible claims will differ for each loss category. These have a vulnerable/high margin of error because of different assumptions surrounding the uptake of compensation claims and impaired individuals in different ways.

Estimated Costs

The analysis provides an estimate of the overall compensation cost payable, primarily using the 15,000 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 three years of the scheme.

Direct costs associated with unsuccessful application fees for Indefinite Leave to Remain (ILR), No Time Limit (NTL) and Citizenship

These are losses associated with application fees for ILR, NTL and Citizenship.

Application fees for ILR and NTL were introduced in 2003 while application fees for Citizenship have been in place since the 1960s.

Analysis has used Call for Evidence responses to estimate the proportion of losses incurred in each year and applying the relevant fee for each year. This includes removing the proportion of the cohort that applied pre-2003 before ILR and NTL application fees were introduced.

Direct application fees have been uplifted by the GDP deflator, a measure of the level of prices of all new, domestically produced, final goods and services in an economy, as published by HM Treasury.

There is uncertainty around whether Call for Evidence responses are representative of the overall cohort of individuals likely to make a claim, however in the absence of any other data they provide the best available information on how individuals have been impacted.

Access to the labour market

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.

Access to labour market analysis estimates compensation costs under a hybrid scheme. This models 45 and 75 per cent eligible claims, based on the proportion of individuals citing loss of income as part of the Call for Evidence responses and a higher proportion to mitigate against uncertainty with Call for Evidence data. From this, two scenarios were considered:

- Scenario 1: 90% of claimants receive a fixed tariff of £10,000 while the remaining 10% claim at the median net earnings per year of loss (this is based on the median salary of Commonwealth nationals who arrived pre-1988).
- Scenario 2: 75% receive a fixed tariff of £10,000 while the remaining 25% claim at the median net earnings per year of loss.

All of these are modelled for a loss duration of 1, 2 and 4 years.

Fixed tariff payments are based on the higher level of compensation from the Parliamentary and Health Service Ombudsman⁴

Access to housing

These are losses associated with compensation paid to those who have not been able to access housing due to not being able to prove their immigration status.

Analysis uses financial remedy recommendations from the Local Government and Social Care Ombudsman⁵ of £150-350 per month depending on the severity of impact. Assuming a tariff-based approach, this provides an estimated compensation cost for access to social housing. Due to the lack of information about likely duration of claim it is difficult to factor this into the analysis, therefore the analysis assumes that duration is one year on average.

It is assumed that around 5-15 per cent of the eligible cohort will seek compensation in relation to access to social housing, based on the proportion of individuals citing housing as part of the Call for Evidence responses (15%).

However, due to a lack of detail with Call for Evidence responses, it is unclear how many of these responses related to private housing and how many relate to public housing. Therefore, actual proportions may be lower. Further concerns are present in whether Call for Evidence data is representative of the wider eligible cohort.

It should also be noted that the estimates currently reflect access to social housing, and do not account for people who may claim compensation in relation to other housing issues, including in the private sector, difficulties proving right to rent, and right to buy (access to mortgages for example) and those who may have been at risk of eviction.

Impact on normal daily 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.

Analysis estimates the cost of compensation using an adapted form of the Parliamentary and Health Service Ombudsman⁶ financial remedy recommendations, applying a tariff of £2,000 per claim. This assumes that majority of individuals will claim in relation to anxiety and distress (around 85-95%), dependent on evidential requirements.

⁴ <https://www.ombudsman.org.uk/organisations-we-investigate/putting-things-right/financial-remedy>

⁵ <https://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes>

⁶ <https://www.ombudsman.org.uk/organisations-we-investigate/putting-things-right/financial-remedy>

Legal fees

This relates to compensation paid to individuals who may have paid for legal advice in the course of making an unsuccessful immigration application.

Analysis uses the average legal fee of £1,077 cited as part of the Call for Evidence responses to estimate the cost of compensation in relation to legal fees. It should be noted that this does not factor in any cap on legal fees that may be claimed. This assumes that around 14 per cent, based on the proportion citing legal fees in Call for Evidence responses, and a higher proportion of 30 per cent will claim for legal fee reimbursement.

COSTS

The costs in relation to the scheme **consist of compensation costs paid to individuals affected and costs of the operational function which considers cases and makes payments.**

It should be noted that compensation costs have been presented based on the 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 15,000 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, 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 are inevitably uncertain at this stage; however, analysis has attempted to indicate the scale of the associated costs through estimating the compensation costs for loss categories considered to be areas of high cost. These will need to be refined as the analysis progresses.

Estimates are based on a planning assumption of up to **15,000** claimants, as well as low (5,000 claims) and high (30,000 claims) volume estimates, with varying proportions impacted for the different types of losses. Although there is a large degree of uncertainty around the estimates, they do provide an indication of the orders of magnitude of the different options under consideration and those decisions most likely to have the biggest costs impact.

Presented below are estimates considering compensation payments that seek to reimburse application fees (ILR, NTL and Citizenship) for unsuccessful applications, and make tariff-based payments for other significant loss categories.

These represent overall estimated costs for the entire compensation scheme. Further costs under different volume assumptions are outlined under risks.

1. Direct costs for unsuccessful application fees (including multiple applications and inflation adjusted fees)

- Estimated cost over lifetime of compensation scheme (based on planning assumption of 15,000 claims): **£20-£30m (£19-28m in present value terms). Further details of costs for other volume scenarios are in Table H.1.**
- Costs are based on fees paid at the time of application (uplifted by inflation to reflect 2018 prices), multiple applications made for the same application route, and include related costs such as biometric enrolment fees, appeals fees and fees associated with Citizenship Ceremony and Life in UK test.
- Analysis assumes between 74-100 per cent of claims being made in relation to application fees.

This document was archived on 6 February 2020

- For example, to estimate costs of ILR applications made in 2015 the analysis is as follows: Volume (15,000) multiplied by the proportion of applications made in 2015/16 (10%) multiplied by the application fee payable (£1,570) = £2.4 million.

2. Access to the labour market

- Estimated cost over lifetime of compensation scheme (based on planning assumption of 15,000 claims):
 - Scenario 1 (90% tariff: 10% actuals) =£70-£160m (£65-£155m in present value terms).
 - Scenario 2 (75% tariff: 25% actuals) =£75-£235m (£70-£230m in present value terms). Further details of costs for other volume scenarios are located in table H.1.
- Under this option it is assumed that:

Scenario 1: 90% of claimants receive a fixed tariff of £10,000 while the remaining 10% claim at the median net earnings per year of loss (this is based on the median salary of Commonwealth nationals who arrived pre-1988).

Scenario 2: 75% receive a fixed tariff of £10,000 while the remaining 25% claim at the median net earnings per year of loss.

- All of these are modelled for a loss duration of 1, 2 and 4 years.
- Fixed tariff payments are based on the upper end of the Parliamentary Ombudsman scales.
- Analysis assumes that between 45-75 per cent of the cohort will have been impacted by loss of income, based on the proportion of people who cited loss of income within the Call for Evidence (45%).

3. Impact on normal daily life

- Estimated cost over lifetime of compensation scheme (based on planning assumption of 15,000 claims): **£25-£30m (£23-28m in present value terms). Further details of costs for other volume scenarios are in Table H.1.**
- This option applies a £2,000 tariff for all claimants, based on the Parliamentary Health Services Ombudsman scale.
- Estimates assume that the majority of the cohort (85%-95%) will seek compensation in relation to impact on normal daily life.
- For example: using the planning assumption of 15,000 claims, cost = 15,000 * 85% * £2000 = £25 million

4. Access to housing

- Estimated cost over lifetime of compensation scheme (based on planning assumption of 15,000 claims): **£2-£7m (£2-£6.3m in present value terms)**
- This option is based on a tariff of £150-£350 per month (£1,800-£4,200 per year) paid to those impacted by access to social housing, based on the Local Government and Social Care Ombudsman recommended rates.
- Analysis assumes that the proportion of those impacted by access to social housing is around 5-15 per cent, based on proportion of people who cited housing as a loss category within the Call for Evidence
- For example: using the planning assumption of 15,000 claims, cost = 15,000 * 5% * £1800 = approximately £1 million

5. Legal fees for unsuccessful immigration applications

- Estimated cost over lifetime of compensation scheme (based on planning assumption of 15,000 claims): **£2-£5m (£1.9-£4.7m in present value terms)**. Further details of costs for other volume scenarios are in Table E.1
- This is options assumes average compensation in relation to legal fees of approximately £1,077 based on Call for Evidence responses
- Assumes that between 14-30 per cent of the cohort will claim compensation for legal costs based on Call for Evidence (14%).
- For example: using the planning assumption of 15,000 claims, cost = 15,000 * 14% * £1,077= approximately £2 million

Based on the above, the estimated range of total cost (PV) is approximately:

- **£120 - £310m (under the planning assumption of 15,000 claims).**
- **£40 - £100m (under the taskforce based volumes of 5,000 claims)**
- **£75 - £165m (based on 10,000 claims)**
- **£240 - £610m (based on 30,000 claims)**

Table E.1 – Option 2, Summary of Overall Compensation Costs, Volumes and Costs, £m (PV), 2018 prices.

	Low Taskforce Based	Intermediate	Central Planning Assumption	High
Estimated volume of claims	5,000	10,000	15,000	30,000
1. Direct costs for unsuccessful application fees	5-10	10-20	20-30	40-60
2. Access to labour market	25-80	45-115	70-235	140-465
3. Impact on normal daily life	9-10	18-20	25-30	50-60
4. Access to housing	1-2	2-4	2-7	5-13
5. Legal fees for unsuccessful immigration applications	1-2	2-4	2-5	5-10
Overall estimated costs £m (nominal)	40-100	75-165	120-310	240-610
Overall estimated costs £m (present value)	37-93	70-154	112-290	224-570

As noted earlier, there is considerable 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 (15,000 claims), demand and likely productivity.

The operational staffing costs are currently estimated to cost between £4m and £6m per year, over three years.

The range covers the grade, location and type of recruitment. There are non-pay costs which are to be determined and which have not been factored into the overall costs. These are heavily dependent on location, infrastructure, IT requirements, set-up costs (storage, post etc.) and any

medical or legal referrals. These factors are currently too variable to publish robust figures. Set up costs (for example IT, training etc) have not been factored into the overall costs.

BENEFITS

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

- The Government are committed to doing right by those who have contributed so much to this country and so is taking steps to right the wrongs suffered by those of the Windrush generation who have faced difficulties demonstrating their status in the UK.
- Providing eligible individuals with compensation to address these issues is one of a series of measures to help put things right.
- In taking these steps we will restore some public confidence in the Home Office and the Borders, Immigration and Citizenship System (BICS).
- In setting up a compensation scheme 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.

Summary

- **Estimated total costs range from £49m-£587m** (present value, compensation costs and operational costs).
- **Estimated total benefits range from £37m- £570m** (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 status in the UK, restoring public confidence in the Home Office, and mitigating any litigation risk and associated legal costs.
- **Estimated Net Present Value (NPV) of the scheme ranges from - £11.2m to - £16.8m.**
- **Estimated Business Net Present Value (BNPV) is zero.**
- **Net cost to business per year (EANDCB) is zero**

F. Risks

As previously noted, there is a high degree of uncertainty around the likely volume of compensation claims and the level of claims against the different loss categories. The IA combines data from Census 2011, Windrush Call for Evidence and the Windrush taskforce in order to estimate volume of claims under each loss category, but there is still a high degree of uncertainty attached to these estimates.

As a result, the analysis uses a number of different volume scenarios ranging from 5,000 to 30,000 claims. These are outlined in Table E.1 above and only consider high cost loss categories, using the same assumptions underpinning the planning assumption estimates.

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 outlines the costs and benefits of the proposed changes. These represent overall costs for the entire compensation scheme with exception of operational costs which represent costs per year, 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 15,000 planning assumption. 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).

Table H.1 – Option 2, Summary of Costs/Benefits, £ million, 2018 prices over 2019-22.

Summary of Costs and Benefits			
	3 yr (£m)		
	Low	Central	High
	5,000	15,000	30,000
COSTS			
Loss Categories			
1. Direct costs for unsuccessful application fees	5-10	20-30	40-60
2. Access to labour market	25-80	70-235	140-465
3. Impact on normal daily life	9-10	25-30	50-60
4. Access to housing	1-2	2-7	5-13
5. Legal Fees	1-2	2-5	5-10
Operational costs			
1. Staff costs	4-6 per year	4-6 per year	4-6 per year
Total costs (PV)	49-110	123-306	235-587
BENEFITS			
6. Direct costs for unsuccessful application fees	5-10	20-30	40-60
7. Access to labour market	25-80	70-235	140-465
8. Impact on normal daily life	9-10	25-30	50-60
9. Access to housing	1-2	2-7	5-13
10. Legal Fees	1-2	2-5	5-10
Total benefits (PV)	37-93	112-290	224-570
NPV	-11.2-16.8	-11.2-16.8	-11.2-16.8

I. Implementation

Policy requirements will be communicated to all affected parties before they are implemented. The Government plans to implement these changes as soon as possible after the response to the consultation is published and the policy is announced.

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. In addition, 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.

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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

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