Dear Amber

Detention of Windrush children

Article 5 of the European Convention on Human Rights (ECHR) states that ‘No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law’. To be lawful and not arbitrary, immigration detention must be clearly justified, prescribed in law, and compliant with appropriate safeguards. The Joint Committee on Human Rights wishes to know whether, and if so how, these conditions were met in the detentions of Windrush generation who had a legal right to be in the UK.

To this end we have the following preliminary questions:

- Where a person is detained the onus is on the person effecting the detention to show that this detention is lawful. The onus should not be on the person detained to prove their right to liberty. So what was the legal basis for the detention of the Windrush generation?
- How did the admission process of the Windrush generation to detention check their detention was lawful?
- What steps were taken, including by removal centres, to inform the Windrush generation of their rights including their rights to challenge their detention or seek bail?
- What access to legal advice and representation was made available to Windrush generation detainees at the time of their detention?
- How many of the Windrush generation have been detained and for how long were each of them detained?

We note that the Home Affairs Committee has asked similar questions, without receiving a satisfactory response, and will doubtless follow up further. We trust you will now be able to provide the Committees with the information they need.

We expect to take oral evidence shortly, and would like this information by Thursday 3 May.

Yours sincerely

Rt Hon Harriet Harman MP, Chair