



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: Detention of Windrush generation,
HC 1034

Wednesday 16 May

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Members present: Ms Harriet Harman (Chair); Fiona Bruce; Ms Karen Buck; Alex Burghart; Joanna Cherry; Jeremy Lefroy; Baroness Hamwee; Baroness Lawrence; Lord Trimble; Lord Woolf.

Questions 1–19

Witness[es]: **Pierre Makhlouf**, Assistant Director, Bail for Immigration Detainees; **Anthony Bryan**; **Janet McKay-Williams**; **Paulette Wilson**; **Natalie Barnes**.

Q1 **Chair:** Good afternoon and thank you very much indeed for joining us. We are the Joint Committee on Human Rights. Half of us are Members of the House of Lords, and half of us are Members of the House of Commons. We look into the issues of human rights. One of the most important human rights is the right not to be locked up, unless you have done something wrong, and to know what is happening to you. We have all seen and heard about you having not done anything wrong but being detained. We are very concerned about that, on the basis of it being a breach of your human rights. We are very grateful to you indeed for coming along to speak to this Committee, to explain what happened to you, so we can think about what went wrong and how we can make sure that it never happens again.

We have Anthony and Paulette, who were detained, and Janet and Natalie, who helped to get them out. Thanks to both of you for coming along as well. Can we start with a question from Lord Woolf?

Lord Woolf: As my title suggests, I am a member of the House of Lords and not the House of Commons. My background is that I was a barrister who did cases involving immigration. I became a judge and eventually a senior judge. Then I got too old and I had to retire,

so I have been retired for a little while now. I am very grateful for you being here to help us. We will all get help from you.

Can I direct my first question not to Pierre but to the other four, who were directly involved in this and who are here for a different reason?

Can you tell me when you first realised there might be any problem about your being in this country?

Anthony Bryan: I first came across this when I tried to visit my old mum, because she was not feeling too well.

Lord Woolf: Was she back in Jamaica?

Anthony Bryan: She was in Jamaica, yes. I applied for a passport, but I had to get my Jamaican passport first. Once I had done that, it all went to the immigration office. Then Capita started sending me letters, saying I was illegal, I did not have any status and they could not find any papers for me.

Lord Woolf: How long had you been living here then?

Anthony Bryan: I have been living here since 1965.

Lord Woolf: Your home was here. Had you any links with Jamaica apart from family links?

Anthony Bryan: After I came, I never left the country. I know people in Jamaica, but only over the phone. I have never spoken to them face to face.

Lord Woolf: When they started to suggest you might be here illegally, did you understand what powers they had?

Anthony Bryan: I thought they had all the powers, because they were telling me what they were doing and they were actually doing it to me, locking me up and taking away my privilege, so I thought they knew what they were doing.

Lord Woolf: Did you explain to them that you had been here a long time?

Anthony Bryan: I told them that, but to them I was lying. They did not believe me. I could not have been here in 1965. I could not have come on my brother's passport. Those were the things they were telling me. Everything I was telling them, I had to prove.

Lord Woolf: Had you done anything that could indicate you might be difficult to trace if they did not detain you?

Anthony Bryan: I did not think it was difficult, because I had my national insurance number since I was 16, when I left school. I thought that all they had to do was look at my national insurance number and I would come up, but unfortunately I did not come up.

Lord Woolf: Besides suggestions being made to you, were any suggestions being made about you, Janet?

Janet McKay-Williams: No, not at all. It was all about him.

Lord Woolf: Your background was very similar to Anthony's.

Janet McKay-Williams: They did not see me. They said that he could always Skype me if he left the country. His children, his grandchildren and I did not matter.

Lord Woolf: You had children and grandchildren.

Anthony Bryan: Yes.

Lord Woolf: You did the best you could to tell them about your background and they just would not accept it.

Anthony Bryan: We were "lying".

Lord Woolf: Yes. Did they ever suggest that you should get help from somewhere or legal advice?

Janet McKay-Williams: No, they never did. He had his HMRC papers and letters of reference from different people.

Lord Woolf: Did you give them those?

Janet McKay-Williams: They have had everything.

Anthony Bryan: Everything I had, I gave to them.

Janet McKay-Williams: Then they turned it around to say, "You have a four-year gap where there is no evidence". Obviously he could not work at that time, because he needed to show photo ID. That is where the gap came in, but they would not listen.

Lord Woolf: Turning to Paulette and Natalie for a moment, what was your involvement?

Natalie Barnes: It is a similar story.

Paulette Wilson: It is the same story.

Lord Woolf: It is the same sort of story. The circumstances are very similar.

Paulette Wilson: Yes.

Natalie Barnes: They are very similar. Anthony spoke about the gap. I was with my mum in the country for 39 years and I had my birth certificate, but they wanted me to prove it from when she left care to when she gave birth to me. It was a 12-year gap that they asked us to fill, and it was very hard to fill because my mum had been in a care home. They had destroyed the building, so the documents were very hard to come by. They kept telling us to go here, there and everywhere. Every time you would go there, you would hit a wall, because they would say, "We do not have it. Go over there". Shifnal would say, "No, it is over here". It was very hard to get that evidence for the first 12 years.

Lord Woolf: As I asked Anthony, did anybody give you legal advice?

Paulette Wilson: No, nobody gave me any advice at all. The first thing I got was a letter saying that I was an illegal immigrant. At the time, I did not understand it. It took me about a week before I could show my daughter that I had this letter, they were saying I did not belong here and I had six months to get out.

Lord Woolf: In your case, did you tell them about your connections with this country?

Natalie Barnes: Yes, we told them everything.

Paulette Wilson: Yes.

Natalie Barnes: They basically told us to get all the evidence. Like Anthony, we got national insurance contributions that she had made from when she was younger, doctors' notes, letters from everybody. We also got a letter from a lady who picked her up from the airport. That was not good enough for them.

Lord Woolf: In either case, Anthony or Paulette, where were you going to run to if they thought you were going to hide somehow and disappear?

Paulette Wilson: Where could we have run to?

Natalie Barnes: She was going to the Home Office every two weeks.

Paulette Wilson: My family is here in England, so I was thinking. "Where would I run to?" The only person I would run to is my daughter and my family here in England. I would not have run away, because I had no passport to jump on a plane and go anywhere. How would I run away?

Natalie Barnes: She did not get in trouble or anything like that, so it was not a case of her ever trying to run. It was a case of them putting this wall up and saying, "We need this. We need it". Everything they were telling us to get they were saying was not good enough. I did not know what to do next.

Lord Woolf: You did everything you could to satisfy them.

Natalie Barnes: I did.

Lord Woolf: Likewise, Janet and Anthony, you did everything you could to satisfy them.

Anthony Bryan: There was nothing else I could have done.

Lord Woolf: Could you give me an idea in both cases, if it is possible, how long before you were taken into detention you feared that you might be detained?

Paulette Wilson: I feared it for the first year. I feared that they were going to come and take me and put me in Jamaica. I was thinking, "But I don't know anybody in Jamaica. I've not been back to Jamaica in 52 years". I was also thinking, "They're going to pick me up here and put me on a plane, and when I go there people are probably going to kill me". I was thinking all sorts of things in my head.

Lord Woolf: How long was it in your case, Anthony?

Anthony Bryan: At first, I did not think they could do anything to me. I thought, "It was 1965". I had been to primary school and secondary school here. Even when I was getting things from Capita, I was saying, "No, it's a joke". One of my friends said to me, "No, Capita will come and take you out of the country if you do not phone them or correspond with them". I

phoned them up. When I phoned them up, the geezer on the phone was a bit rude. He was saying, "You're illegal". I said, "Come for me then", and I hung up the phone. I told my missus, and she said, "No, you shouldn't have done that, because Capita will come for you".

A couple of days later, they did. I saw the van on the road, but I did not take any notice of it. I opened my door and went in. They were there for about five days on the same road. They did not come and knock for me. I just saw the van park up near my house. I just ignored it and went in. On Sunday, they came and knocked on the door, saying "police". They were knocking on the window and the door at the same time, to try to confuse me. I do not know what they were trying to do. I asked, "What are you banging down my door for?"

Anyway, I opened the door. They asked me my name. I said, "My name is Anthony Bryan". They said they had to arrest me. I said, "What?" They said they had to arrest me. I said, "Who are you guys?" They said, "Immigration". They said, "Get some clothes together, because you're not coming back. You're not staying here". They were going to take me to detention. I said, "Could I make a phone call?" They said, "No". They took me to the police station. I went to the police station. As I reached the police station, I said, "Could I make a phone call?" They said, "No".

Lord Woolf: Who did you want to phone?

Anthony Bryan: I wanted to phone Janet. Anyway, after about six hours in the police station, I got a phone call. I told her that I was in the station where I was and they planned to bring me to wherever they would bring me. That was it. After I phoned her and told her I was there, she tried to come down to the police station. By the time she reached it, they had already moved me. They drove me six hours, all over the place. They tried to get me to the detention centre. They were all packed, so I went to three in the same night. They brought me to Oxford, and that is where they left me.

Lord Woolf: In both your cases, it was not only you, Anthony, and you, Paulette, who were telling them about your backgrounds. Janet could vouch for you.

Anthony Bryan: They would not listen to Janet. If they were not going to listen to me, they were not going to listen to Janet.

Lord Woolf: In your case, Paulette, you had your daughter, Natalie.

Paulette Wilson: They did not want to listen to her.

Natalie Barnes: They said they did not care that she had a daughter and a granddaughter. It was nothing to do with them.

Paulette Wilson: They did not care about my daughter or my granddaughter at the time.

Q2 **Ms Karen Buck:** I am a Member of Parliament in inner London. Going back a little, you talked about the evidence that you were

trying to put together to show how long and how consistently you have been in this country. Did they give you precisely the evidence that they would be prepared to accept, or did they leave you to think about what kind of evidence you could put together? Presumably you spoke to friends and family about this, but did you seek any informal advice, such as from Citizens Advice? Where did you go, to get an idea of how you could make that case?

Natalie Barnes: They told us to go to Citizens Advice, but I did not think that Citizens Advice would deal with that. I went to a solicitor, and it was the solicitor who said to me, "Get this, get that, get this. We'll see if we can do this or that". The Home Office did not guide me. They just said they needed evidence.

Ms Karen Buck: They did not ask if you were on the electoral register or had GPs.

Natalie Barnes: No. I never heard anything like that.

Janet McKay-Williams: It was exactly the same with us.

Ms Karen Buck: You had no idea what kind of information you could put together that would help make your case.

Anthony Bryan: The only time I knew what they wanted was when I saw the Jamaican high commissioner. He was telling me what I needed to get, and I was saying that I did not have it. It was just a nightmare.

Chair: When did you see the Jamaican high commissioner?

Anthony Bryan: It was when the 12 of them came over.

Natalie Barnes: It was a couple of days before we went to Downing Street.

Anthony Bryan: Yes.

Chair: I see, so it was way after, when it was a public debate. At that point, you realised what you should have been getting, but they had not told you before.

Anthony Bryan: Yes.

Chair: That was a bit late in the day, was it not?

Anthony Bryan: Yes. I had already been locked up by then.

Q3 **Baroness Lawrence of Clarendon:** I am a Member of the House of Lords. I would like to follow on from what Karen was saying to you and what we heard about the high commissioners. It was during the Commonwealth meeting that they came over. Were you able at any time to contact the high commissioner about your situation, or did you think about doing that?

Anthony Bryan: To be honest, I never thought about doing it.

Janet McKay-Williams: We never actually did it. Once the media got in touch, the high commission contacted us. They told us that we were allowed to come there and people did not know about using them. We did not know until then. We did not know anything.

Natalie Barnes: Basically, we found that out after the fact.

Baroness Lawrence of Clarendon: That was only a couple of weeks ago, when the Commonwealth had its meeting here.

Natalie Barnes: Yes.

Baroness Lawrence of Clarendon: Anthony, you talked about how many days the van was outside. How did you know that was an immigration van? Do they have it on the side of their vans?

Anthony Bryan: Yes, it is all printed. It is like a plumber's van with everything on it.

Baroness Lawrence of Clarendon: It had "immigration" on it.

Anthony Bryan: Yes, I knew it was them.

Baroness Lawrence of Clarendon: Janet, you were not at home when they came for Anthony.

Janet McKay-Williams: I had just left to go to work that day.

Anthony Bryan: She had just left to go to work, because it was about 9 am that they came for me. She must have left about 8.30 am.

Baroness Lawrence of Clarendon: They were obviously watching the house to see when you left, so that there was an opportunity for them to come and take Anthony away.

Janet McKay-Williams: Most likely, yes.

Baroness Lawrence of Clarendon: Did other members of your family get involved in helping to get the information that you needed for immigration?

Anthony Bryan: My son was rallying around like a mad person, going here, there and everywhere, getting phone calls, coming back inside.

Janet McKay-Williams: We still did not get the information we needed.

Anthony Bryan: I was mad, because what we were getting was not helping me, as I was still locked up.

Baroness Lawrence of Clarendon: What do you think the reaction would be if you were from, say, Canada, New Zealand and Australia?

Anthony Bryan: I hate to say it, but I do not think I would have this problem.

Baroness Lawrence of Clarendon: Why?

Anthony Bryan: I would be from Canada or those other places. I would not be from Jamaica.

Janet McKay-Williams: It is because of the colour of your skin.

Anthony Bryan: I did not want to say that. I am from Jamaica.

Baroness Lawrence of Clarendon: It is obvious. You see race as playing a big part.

Anthony Bryan: In the Home Office, yes.

Baroness Lawrence of Clarendon: I know you said you had phone calls, but did the Home Office at any time send you a letter or anything setting out exactly why it felt you were an illegal immigrant?

Janet McKay-Williams: No. They literally said, "You have no right to remain. You have not given us enough documentation". That was after you had been arrested.

Anthony Bryan: It was before and after.

Baroness Lawrence of Clarendon: What about you, Paulette? Did they travel to your home?

Paulette Wilson: No.

Natalie Barnes: She was visiting Solihull.

Paulette Wilson: I was taken from Solihull. They never came to my home or took me from my home.

Baroness Lawrence of Clarendon: What is in Solihull?

Paulette Wilson: The Home Office in Birmingham.

Natalie Barnes: The Home Office reporting centre.

Baroness Lawrence of Clarendon: You went there first.

Natalie Barnes: She was going there every two weeks.

Baroness Lawrence of Clarendon: They decided to detain you while you were there.

Paulette Wilson: They detained me twice.

Natalie Barnes: The first time was on 9 August, but they only kept her for three hours.

Paulette Wilson: Then they let me go. When I went back on 18 October, they detained me and took me to Yarl's Wood.

Natalie Barnes: She said to them on the day she was in there that she had everything she needed and she would be paying the fee the following Wednesday, but they still detained her.

Paulette Wilson: They said it was not enough.

Baroness Lawrence of Clarendon: I am sorry. You were paying a fee. What fee were you paying?

Natalie Barnes: They said we had to fill in an NTL, a "no time limit".

Baroness Lawrence of Clarendon: Was there a cost to that?

Natalie Barnes: Yes, it was something like £229 or £239.

Anthony Bryan: It was £239.

Baroness Lawrence of Clarendon: That is what I am trying to understand.

Natalie Barnes: It was never about the money, by the way. It was just about getting evidence. At that time, I felt like I had got all the evidence that they needed. My mum had her solicitor and her caseworker at the RMC, where she was going to get the help. There was a lady in there named Heather, who had adopted a little girl who had been in the same care home as my mum. She was able to get the information that we needed for my mum from that care home and knew where to go to get it. She got that for us. That is why we then said, "We have everything now and she will be able

to pay that fee next Wednesday”, but they still detained her that day when she said that.

Baroness Lawrence of Clarendon: Anthony, how long were you detained for?

Anthony Bryan: At first, I was detained for three weeks. The second time, I was detained for two weeks, so it was five weeks in all.

Baroness Lawrence of Clarendon: Paulette, how long were you detained for the second time?

Paulette Wilson: The second time, I was detained for a week. I was in Yarl’s Wood for six days and on the sixth day they took me to Heathrow Airport. I was supposed to be going to see the Jamaican high commissioner, but I ended up at Heathrow Airport, and I had the feeling that I was going to be put on the plane the next day.

Baroness Lawrence of Clarendon: What stopped that from happening?

Natalie Barnes: I went to the news. I brought it to the media, and I told my mum on the phone. I could hear a clicking sound, and I was angry at the time, so I said, “I know you’re listening to me and I hope tomorrow you’ll be watching the news at 11.30, because I’ve had enough of this and what you’re doing to my family”. They let my mum go the next day at 11.15.

Janet McKay-Williams: Saying that, when he was locked up the first time, they had him under someone else’s name. It was a mistake.

Anthony Bryan: I had a big gun and they did not want to let me out, because I was terrorising the area they arrested me in.

Janet McKay-Williams: When I went to visit him with his son, they brought someone else down to see us instead of him. It was not until someone who was there with him read his paperwork and said, “This isn’t you. You’ve never been a criminal”.

Anthony Bryan: I was upset. They locked me up. I was in jail. They gave me this form with five or six letters about me. They gave me a locker. I just put it in the cupboard. I met this guy in here and he said, “What are you in for?” I was telling him. He did not believe me, funnily enough, so I said, “Read this”. I gave him what immigration had given me. He said, “I thought you hadn’t been in trouble before”. I said, “No, I haven’t been in trouble”. It had “Anthony Roberts”, “Anthony Williams”, “Anthony” everything on it but me. It had everyone else’s name apart from mine.

Janet McKay-Williams: He gave them back that paperwork.

Anthony Bryan: When I gave them back the paperwork, it was the Thursday.

Janet McKay-Williams: I had to fax some details to them.

Baroness Lawrence of Clarendon: Usually, when people have some documents of yours, the first thing they want to do is check

your name and your date of birth to make sure they correspond. Obviously none of that was done.

Janet McKay-Williams: No, not at all.

Chair: No, not once you get in the van.

Janet McKay-Williams: It was the centre where it was not checked.

Chair: It was the centre as well.

Baroness Lawrence of Clarendon: How far away was it? Was it easy for you to travel to visit?

Anthony Bryan: It was 160-odd miles from where I live.

Janet McKay-Williams: I could only visit him twice, and the second time I only visited him on that day because it was over two weeks. Luckily enough, they released him the day I got there. It was good, but he could not have visitors. It was too far.

Baroness Lawrence of Clarendon: Was the distance the same for you, Paulette? What was the distance from where they had taken you to where your daughter is?

Paulette Wilson: It was in Bedfordshire.

Natalie Barnes: It was in Bedfordshire. It was in Wolverhampton first.

Paulette Wilson: It was really far from Birmingham to Bedfordshire. You are in this dark van. It was night anyway. It was far. It took hours to get there.

Natalie Barnes: You said that when you looked out of the windows all you could see was—

Paulette Wilson: Trees. I never saw any houses or the motorway. Do you know what I mean? It was just trees.

Anthony Bryan: You are not a criminal, yet they nick you and bring you 160-odd miles from your house. Now, what is that all about?

Baroness Lawrence of Clarendon: At the end of all this, have you thought about taking any legal action against the Home Office, the detention centre and that sort of thing?

Anthony Bryan: Yes, most definitely.

Natalie Barnes: Yes, 100%.

Paulette Wilson: You cannot keep treating people like this.

Natalie Barnes: It is not right. Everyone has human rights, and how they treated her is not right. I have never believed that, as a British person, I would see someone treat somebody like that. It is absolutely wrong.

Q4 **Baroness Hamwee:** I am in the House of Lords. I am a solicitor by background, but that does not mean that I think our system should require lawyers to be involved all the time. You should not have had to take legal advice. My question, rather like Karen's, was to ask whether in the early period, when they were first asking for documentation and so on, either of you were advised to take legal advice. Natalie, it was suggested you went to the citizens advice

bureau, but was that ever suggested?

Janet McKay-Williams: No. We were told we were not entitled to legal aid. For any immigration case, no legal aid is allowed.

Natalie Barnes: Because they had no public funding and were not able to work, they were saying that they were not allowed legal aid anyway.

Chair: Who was saying that?

Natalie Barnes: The system was saying that. The RMC was telling us that maybe, because she is not allowed to work, she would not be entitled to legal aid.

Q5 **Fiona Bruce:** Good afternoon. I am a Member of the House of Commons. I am also a solicitor. Thank you for your bravery in coming today. We appreciate it very much. We know it would not necessarily have been easy to come, but we appreciate it.

Natalie, you said earlier that your mother never got into trouble. Can we take it from that that she had never been in trouble with the law before? You do not have to answer it if you do not want to.

Natalie Barnes: When she was younger she probably got into a bit of trouble, but nothing drastic.

Fiona Bruce: She had never been arrested or detained in such a way.

Paulette Wilson: I had when I was younger. I was in my teens.

Natalie Barnes: It was nothing drastic. Yes, she got into a bit of trouble, but if that was the case why did they not see she was a Jamaican illegal immigrant then and send her back?

Fiona Bruce: It was many decades before.

Natalie Barnes: It was way before my time.

Fiona Bruce: It was never mentioned in this connection.

Natalie Barnes: No. It happened when she was in care, but nothing drastic.

Fiona Bruce: Anthony, was your situation similar, in that there was nothing that you feel could have linked you to being arrested from anything you had done previously?

Anthony Bryan: No.

Fiona Bruce: You had never been arrested or detained.

Janet McKay-Williams: Everything that happened was in the paperwork: any trouble he got into as a child or whatever. Everything was there. They wrote, "Even though you are of good character and have never been in trouble, it does not give you the right to remain".

Anthony Bryan: I have the letter stating that.

Fiona Bruce: Can I pick up on something we have been told about your situation, Paulette? We have been told that you lost your flat

and your disability benefit payments were stopped. Was this directly due to this inquiry into your circumstances?

Paulette Wilson: When I first got the letter saying that I was an illegal immigrant, I got a letter from the Department for Work and Pensions saying that I was not entitled to any benefits or healthcare. That was it. I was not entitled to anything at all.

Fiona Bruce: What was the impact on your life?

Paulette Wilson: I had my daughter.

Fiona Bruce: You went to live with your daughter.

Paulette Wilson: Yes. My daughter was the one who took care of me in all that I have been going through.

Fiona Bruce: Can I ask for the record who your landlord was?

Natalie Barnes: She was renting a room at the time. It was not her own property.

Fiona Bruce: Was it from a private landlord?

Natalie Barnes: Yes. She was there for a bit afterwards, but we decided that it was a waste of money. She might as well come and stay with me. I volunteered for my council at the time and I had a word with them. It was said that, because she was not getting any income or anything, it would not come back on me. It was a good thing, or not a good thing, but because she was not getting any money she could stay with me. She was not paying rent or anything like that to anyone.

Q6 **Alex Burghart:** Good afternoon, everyone. I am an MP in Essex. Thank you very much for everything you have told us so far. One thing that has concerned us as a Committee is the fact that you were essentially asked to prove that you should not be locked up, which is completely the wrong way round, as we would see it. When the authorities wrote to you to say that they believed you were an illegal immigrant, how did they set out their case? Did they just say, "We think you're an illegal immigrant, Paulette, so you're not entitled to anything and these are the consequences"? Did they give you any explanation?

Paulette Wilson: No, they did not.

Natalie Barnes: All the letters kept saying was, "You are liable to be detained". It was on every single letter. Even when she came out of the detention centre, she was getting the letters saying that she was liable to be detained. She still had to go to the Home Office after she had come out of detention.

Alex Burghart: Was that the same for you, Anthony?

Anthony Bryan: Yes, definitely.

Alex Burghart: At no point did they say to you, "It's because we don't have any record of you being here. It's because you do not have a passport". It was an open and shut case.

Janet McKay-Williams: "We have refused your application. You have no right to remain in Britain and you need to leave".

Alex Burghart: It did not explain why the application was refused.

Janet McKay-Williams: They just said there was not enough evidence. That is all they kept saying.

Anthony Bryan: There was not enough status.

Natalie Barnes: "When did you come into the country? Prove it from then until now".

Anthony Bryan: They asked for all these payment receipts: Sky or gas bill, four of them for the year. I do not have last week's receipts. Who is going to keep those things?

Natalie Barnes: I did not understand, because I watch these shows on the airports and that, and the Home Office is always there. I was saying to my mum, "I don't understand why they're saying that you're an illegal immigrant. Can't they look into their system and see when you came here, what date you came here?" because the Home Office stamps your passport when you come. I did not understand it.

Anthony Bryan: I did not understand it.

Alex Burghart: It seems very strange. What you said earlier, Anthony, was a question I asked the Home Office the other day about people who are in this situation, who have been here for a long time and have national insurance numbers and identities going back decades. It ought to all be on a government system.

Anthony Bryan: It should have been somewhere.

Alex Burghart: Yes, absolutely. When you first arrived at the detention centre, what process were you put through? Were you given any advice? Did anyone read you your rights?

Anthony Bryan: No. When you reach there, they process you. They have a wing for all the new people who came in that day or that week. Then, after 24 hours, you go to a different wing, because there are other people coming in behind you. They probably keep you for two weeks or three weeks. It depends on what they want to do. You do not have a say in it.

Alex Burghart: Are you given contact with the outside world?

Anthony Bryan: They give you a phone and those kinds of things, so you can phone the family, but it was not good enough.

Alex Burghart: Was that the same for you, Paulette?

Paulette Wilson: Yes, it was the same.

Natalie Barnes: It was exactly the same.

Alex Burghart: Nobody told you what your rights were.

Paulette Wilson: No, there was nothing at all.

Anthony Bryan: We could not ask what rights we had, because they were blankly telling us that we did not have any rights. We did not have any status and we did not have any right to stay in the country.

Natalie Barnes: That is why you think, "It's the end. Now they've been detained, they're going to be sent back to Jamaica". I know that Janet and I were thinking the same thing.

Anthony Bryan: They had tickets for me, so there was no reason for me to think I was not going. To be honest, I thought I was going. I phoned the missus and said, "Listen, it looks like you're going to see me in Jamaica". That is what I told her. To be honest, I was broken. I was resigned, because I could not fight any more. I gave up, because six weeks before that I had buried my son, and then all of a sudden I was in this lock-up and I had not done anything. I was upset, so I signed the paper and said, "Get me out of here". I phoned up my missus and told her. My son kept phoning me, saying, "Are you mad? What are you doing?" It was hard.

Chair: Our deepest sympathies to you for the loss of your son. Could we ask you something about how they were with you? Paulette and Anthony, you were trying to explain to them that you were not illegal immigrants. Janet and Natalie, you were trying to explain to them that they had got it wrong. How were they with you? Were they interested in the information you were putting forward? Were they asking your opinion or trying to hold you at bay? What were they like with you? Were they polite? Were they courteous? Were they professional?

Natalie Barnes: I do not think they were polite, courteous or professional. I have a mouth on me; do not get me wrong. I have. When it came to my mum, I was very angry and I was trying to say to them, "Listen, you're doing the wrong thing. She was here before the law kicked in. It did not kick in until 1973. My mum has been here since 1968". Basically, a guy swore at me. I swore back at him. I said to him, "Can you prove to me that you are English right now? Prove it. Take something out of your pocket to prove to me that you are British. How do I know that you're British and not from a different country?" He swore at me and then I got banned from the Home Office. They banned me from there, because they said that I was causing a bit of a disturbance when I was going there, because I was trying to fight for my mum.

Chair: What about you, Janet?

Janet McKay-Williams: I had no personal dealings with the Home Office. It was all through the solicitor. They got in touch with her all the time.

Baroness Hamwee: You mentioned the stamping of the passport at Heathrow. Which passport was this?

Natalie Barnes: It was the one she came in on.

Baroness Hamwee: It was a Jamaican passport. I just wanted to get that clear.

Q7 **Lord Woolf:** There was a lot of publicity about people with backgrounds like yours in the media recently. Has anybody been to see you since that happened to apologise to you for what occurred,

Anthony?

Anthony Bryan: Do you mean immigration?

Lord Woolf: Yes.

Anthony Bryan: No. I have not heard anything from them.

Lord Woolf: What about you, Paulette?

Paulette Wilson: I have heard nothing at all.

Natalie Barnes: We were all in Parliament two weeks ago. That upset me. I went home and cried, because it made my mum feel really bad that they only said, "We are sorry, Paulette Wilson". I broke down.

Lord Woolf: Who said that?

Natalie Barnes: It was Caroline Nokes. I broke down in Parliament because of that.

Lord Woolf: This was in Parliament.

Natalie Barnes: This was two weeks ago in the Committee room.

Anthony Bryan: I did not take any notice of that, because it was a bit hollow to me. She probably meant well, but where I am coming from that was not good enough for me.

Chair: That was because you came here, was it?

Anthony Bryan: Yes.

Natalie Barnes: There was Anthony there. There was Sarah there. Elwaldo was there. Sylvester was there.

Paulette Wilson: They were all there.

Natalie Barnes: They only said Paulette's name and I broke down in tears. I thought, "How dare they do that? How is that going to make my mum feel or look now?"

Q8 **Chair:** Can I ask you something about detention, particularly you Anthony, because you have talked about the detention, but also Paulette? I am going to describe to you what the official rules are about what should happen and what the regime should be like in detention. I would like you to tell the Committee whether that is what it was like when you were in detention or whether it was different.

The rules, which are the detention centre rules 2001, say that there must be a relaxed regime with as much freedom of movement and association as possible; that you should be assisted to make the most productive use of your time, while respecting in particular your dignity and the right to your individual expression. Is that what it was like in the detention centres?

Anthony Bryan: To be honest, no, it was not like that for me. I might have missed certain things in the vexation I was feeling, but no. In the second one, which was Oxford, the people who locked me up were nice. I did not really want to say it, but they were.

Janet McKay-Williams: You actually got what they said it was supposed to be like in Oxford.

Anthony Bryan: In Oxford, they were nice. The screws there were nice.

Janet McKay-Williams: Screws?

Anthony Bryan: Well, I call them screws.

Chair: I am sorry you were there to be experiencing their niceness.

It would have been better if you had been indoors with Janet.

Anthony Bryan: Oxford was nice. The Verne is a different thing. That is a prison.

Chair: In what way?

Anthony Bryan: The difference was the wardens and the people there. They were not nice.

Q9 **Baroness Lawrence of Clarendon:** Paulette, what age were you when you travelled over?

Paulette Wilson: I was 10.

Baroness Lawrence of Clarendon: You were 10. You were on a Jamaican passport.

Paulette Wilson: It was a British blue passport. It was British then, when I came over.

Natalie Barnes: It was Jamaican.

Paulette Wilson: It was a Jamaican British passport.

Baroness Lawrence of Clarendon: Jamaica got its independence in 1962. After that, you would have had a Jamaican passport, whatever colour it was.

I have another question. I am not sure how it was said, whether something was in the newspaper or how it was publicised, but back in 1985 or around that time, there was something for people like you to be naturalised. Did you know anything about that?

Paulette Wilson: I did not, because I did not watch a lot of TV in those days, so I did not really know about it.

Anthony Bryan: I saw it, but I thought it was not for me. I was here from 1965. I went to primary school and secondary school here. I did not think they were talking to me. That is how I thought.

Baroness Lawrence of Clarendon: What is your status now?

Anthony Bryan: Do you mean me, personally?

Baroness Lawrence of Clarendon: I mean both of you.

Anthony Bryan: I have my biometrics. That is it.

Baroness Lawrence of Clarendon: Do you have a British passport?

Anthony Bryan: No.

Baroness Lawrence of Clarendon: What is biometrics? What does that mean?

Anthony Bryan: Biometrics has your fingerprints, your eye colour.

Janet McKay-Williams: There is no time limit. You can stay in the country indefinitely.

Anthony Bryan: They put no time limit on it.

Baroness Lawrence of Clarendon: Will you be applying for a British passport now?

Anthony Bryan: Yes.

Natalie Barnes: I was hoping that they were going to get them today.

Anthony Bryan: I thought we would have got them already, to be honest.

Baroness Lawrence of Clarendon: How do you mean?

Anthony Bryan: We are British. They know that we are British. They are waiving all these things. Waive the rest of the things and give us our British passports.

Baroness Lawrence of Clarendon: Would you not have to put in an application form, send in your photos and all the rest of it?

Anthony Bryan: We are doing that now. My solicitor is on that. I am supposed to go there tomorrow morning to do all that.

Chair: One of the things that Lord Woolf alluded to was that, even under the Immigration Rules, you are not supposed to be detained unless there is reason to believe you would flit off somewhere else. You had a normal residence and you were in a normal place routinely. Could they have had any justification for thinking that you would have disappeared off somewhere else in the UK and hidden?

Anthony Bryan: I do not know how they got that idea, because I did not have any money, and you need money to travel and go anywhere, even by Oyster.

Janet McKay-Williams: He signed on. He never missed one signing on. If they said, "Come on this day", he was there.

Anthony Bryan: I could not have run, because there was nowhere to run.

Chair: How near do you think you were to being put on the plane? Do you know how near you were?

Anthony Bryan: I got there on Monday, and on the Wednesday they told me that they had a ticket for me. I was sure I was going to go.

Janet McKay-Williams: He was literally at Oxford Airport.

Anthony Bryan: That was another torture. Why have the detention centre right in the airport, where you can see the planes landing and taking off? That was depressing for me, because I was wondering whether that was the plane I was going on. It was not nice.

Q10 **Jeremy Lefroy:** I am a Member of Parliament in Staffordshire. Thank you very much for coming today and sharing with us.

I have only one question for Anthony and Paulette. Did you get the impression that, whatever evidence and papers you had given, it would not have been enough?

Anthony Bryan: In my case, because of my national insurance number and the work I had been doing—I was on record paying taxes—I thought that would be enough. That is what I thought, anyway.

Paulette Wilson: I thought the same thing, because I had been working since I was 15. I had a national insurance number that they gave me when I was 15 years old. I thought that would have been enough, but it turned out that it was not enough.

Anthony Bryan: I got mine when I left school.

Paulette Wilson: I did as well.

Anthony Bryan: You cannot forge these things. You have to get it when you leave school, so I have been using the same one from when I was 16 years old until now, at 60.

Jeremy Lefroy: Did they ask for any documents that it would have been impossible, even for any of us, to have produced?

Anthony Bryan: Most of the documents were impossible for me to get, because I do not keep documents. I suppose there were a few that you could get if you really went out there looking for them. I had to go and look for my school records.

Jeremy Lefroy: You were asked for your school records.

Anthony Bryan: Yes.

Jeremy Lefroy: I wonder how many of us here have our school records.

Anthony Bryan: I was lucky, because I went to the council, and fortunately it had me on its records for Northwold Primary School.

Jeremy Lefroy: They had that record, and even that was not enough.

Anthony Bryan: No. I got that and I brought it to them. It still was not enough. That was the last thing for me.

Jeremy Lefroy: It was still not enough. Were you were asked for anything as detailed as that, Paulette, that you produced and yet it still was not enough?

Natalie Barnes: It was exactly the same for my mum. It was the school records. My mum was in boarding school from when she was 13 until she was 16. I thought that would be easy to get because of it being a boarding school. It was absolutely hard to get. Like I said to you, it was the lady, Heather, who helped us at the end and got us the information just before October.

Chair: Have you seen your files? Do you know what is on your Home Office files?

Paulette Wilson: No.

Natalie Barnes: I have never seen a file.

Anthony Bryan: I have never seen it.

Chair: Would you be interested in seeing your Home Office file?

Paulette Wilson: I would love to see it.

Anthony Bryan: Yes, most definitely.

Natalie Barnes: I would also like to meet the caseworker who was appointed to this case.

Paulette Wilson: We never met her or him.

Natalie Barnes: They said we had a caseworker.

Chair: Perhaps, as part of this inquiry, we will ask the Home Office to give you your files. They can give them to you, and whatever is in those files, perhaps, if you want, you could show them to us so that we can understand what was going on in the Home Office's head during all this. That would be helpful. Shall we ask the Home Secretary on your behalf to give you your Home Office files?

Paulette Wilson: Yes.

Anthony Bryan: Yes.

Chair: We will do that.

Q11 **Lord Trimble:** Anthony and Paulette, can I take you back to the point when you were released from detention. Was anything said to you at the time about what you should do or what your position was?

Paulette Wilson: No, not when I got detained.

Natalie Barnes: He is talking about when you left detention. When you walked out of that door, what happened? What did they say to you?

Paulette Wilson: I had to report to the Home Office in Solihull, Birmingham.

Natalie Barnes: Can I say something, mum?

Paulette Wilson: Go on, then.

Natalie Barnes: They put her outside the door and said that a guy was going to pick her up. That is what I am on about. Talk about that bit.

Paulette Wilson: The day I was released, they put me outside the airport. The man who let me out said, "A cab is going to pick you up and take you to the station". I was outside the airport. I was in tears, crying, because the planes were just taking off over my head. I had to stand and squeeze my head. I was praying for this taxi man to come and pick me up. They shoved me out. No one stayed with me. I waited for the cab. The cab man came. He said, "Are you Paulette Wilson?" I said, "Yes". He put in the cab and took me to the station. From the station, they gave me a travel warrant to get from here back to Wolverhampton, and that was it. I was on the Underground. Then I got to Euston and I was put on the fastest train back to Wolverhampton. They have not said anything to me ever since.

Lord Trimble: Did you ever receive any further contact from them at all?

Paulette Wilson: No, only to go and report to the Home Office.

Natalie Barnes: When they let her go, apparently they were meant to give her a form—IS96, I think that is what it is called. They were meant to give

it to my mum. When we went to see our caseworker, they asked my mum, "Did they give you any paperwork?" I said, "She hasn't got any paperwork from being detained". My caseworker had to contact the Home Office for them to send out an IS96, so that my mum could go back to the Home Office and report a couple of days after.

Chair: How did you know that you were not going to be detained again?

Natalie Barnes: We did not.

Paulette Wilson: That was the scariest moment of my life.

Natalie Barnes: Everybody came with us. I thought, "I'm going to need back-up. I don't know what I'm going to do if they detain my mum again in front of me", because I just did not know. Luckily, she came straight out.

Lord Trimble: Did anybody else give you any assistance at this time?

Natalie Barnes: No one apart from my caseworker and my solicitor. All they could do was assist, really, because they did not know too much.

Lord Trimble: You had a solicitor by this stage.

Natalie Barnes: Yes.

Lord Trimble: What was the position with regard to legal aid or anything of that nature? Were you paying for the solicitor out of your own pocket?

Natalie Barnes: Yes.

Lord Trimble: Anthony, were you in a similar situation?

Anthony Bryan: Yes.

Chair: How much did you pay for legal help?

Anthony Bryan: You would have to ask Janet, because I could not pay anything. I was locked up.

Janet McKay-Williams: The day they were going to put him on a plane and deport him, it cost me £1,350 to get a High Court injunction to stop that flight, just for that one day. That is without the cost of solicitor fees and everything before.

Anthony Bryan: You did not book the flight, but you had to cancel it. It was terrible.

Janet McKay-Williams: That is on one wage, by the way.

Baroness Lawrence of Clarendon: I hope you have kept all those receipts.

Janet McKay-Williams: I have kept everything.

Baroness Lawrence of Clarendon: You have kept them, good.

Natalie Barnes: I am sorry that you had to pay all that. We were lucky. We met our solicitor through the RMC. He gave up his time for us for free, because he knew that my mum's situation was wrong and he formed a bond with us. He is part of my family now. I call him Uncle Jim, because he gave up his time. He took it out of the RMC's hands and brought it over to his firm in Birmingham, and it really helped us out a lot.

Q12 **Ms Karen Buck:** Part of this question has been answered already. Sally and I were just asking each other what, in both your cases, sparked the attention of the Home Office. In Anthony's case, I think it was applying for a passport.

Anthony Bryan: The minute I tried to get my passport, to go and visit my mum, is when it all started.

Natalie Barnes: I put my mum's case down to it being her pension. They did not want to give her her pension.

Ms Karen Buck: I saw in the notes that that appears to be what sparked it off, but surely, Paulette, if you were working, you were known to be making national insurance or pension contributions.

Paulette Wilson: Yes.

Natalie Barnes: She had made 37 years of contributions.

Ms Karen Buck: Is that a suspicion, or is it grounded in knowledge in your case, that that is what sparked it off?

Natalie Barnes: For me, it is suspicion, but from talking to others it seems like that was the case.

Chair: When we see the files, we will be able to understand what they thought was going on.

Q13 **Fiona Bruce:** Have you had the benefits you lost repaid, Paulette, or are you still waiting?

Paulette Wilson: I am still waiting.

Fiona Bruce: And how much was involved?

Paulette Wilson: My daughter knows.

Natalie Barnes: We got her back on her benefits. They gave her three months prior. That was all they gave her back.

Fiona Bruce: Does that not cover the whole period?

Natalie Barnes: You have to fill in a form and say when you want it covered from. I put 18 August 2015, but they said that they could not pay it from then. They could only pay three months back from October.

Fiona Bruce: How much do you estimate that your mother has lost?

Natalie Barnes: I could not put an estimate on it. It is quite a lot, two and a half years' worth.

Fiona Bruce: What amount is that per week?

Natalie Barnes: I do not know. Maybe she would not have been on benefits. Maybe she would have got herself a job, but she did not have the entitlement to go and get a job either, so I do not know. If you want to put it down to benefits or work, I can figure that out, but I could not give you an estimate off the top of my head now.

Fiona Bruce: It is not an insubstantial amount, and she was out of pocket for a long time.

Natalie Barnes: Yes, two and a half years.

Baroness Lawrence of Clarendon: What is the RMC?

Natalie Barnes: The RMC is the Refugee and Migrant Centre in Wolverhampton.

Q14 **Chair:** Thank you very much indeed, you four, for explaining that experience. It should not have happened and we will get more insight when we look at your files, but it has been very heartrending hearing what you have experienced, and how frightening and shocking that must have been for you. Janet and Natalie, what would have happened to Anthony and Paulette had you not been on the outside? Anthony, what do you think would have happened if Janet had not been there?

Anthony Bryan: My hero is sitting here, seriously, because I tell you, if it was not for her, I would have given up a long time ago. I would have given up. It was too hard. I was willing to go back to Jamaica. Although I do not know Jamaica I was willing to go back, because I was fighting, fighting, fighting, fighting, fighting and I was not getting anywhere. Immigration did not believe me. Those who needed to believe me did not believe me. For the two years when I did not pay any tax, they say I could have left the country. On what passport, I do not know, because my passport was with immigration. It was hard.

Chair: Paulette, what do you think would have happened if you had not had Natalie there, mouthing out at the Home Office and telling them what was going on?

Paulette Wilson: I would be in Jamaica all alone. I did not know anybody over there. I thought, "Are they sending me to die?" My mind was up and down, 24/7, going this way and that way. I give thanks for having a daughter like the one I have. If it were not for her, I would not be here.

Chair: You must have done something right.

Natalie Barnes: Thank you for giving us the opportunity to do this, because we have wanted to do this for a while. You have taken a big weight off our shoulders—all four of us—for doing this. You do not understand what you have done. Thank you.

Q15 **Chair:** Thank you very much for coming. Just wait here for a moment. We are going to hear from Pierre, who is going to try to disentangle for us what must have been happening on the other side of the wall: who was sending out the vans, who was looking at the processing of the papers, who was making the decision. Anthony and Paulette knew nothing about who was making the decision. Can you tell us what was going on?

Pierre Makhlouf: To the extent that you need to understand, my organisation assists detainees applying to get out of detention. Although we also have a small project assisting people who face deportation, the bulk of our work involves assisting detainees to represent themselves,

because of the real problems there are with accessing legal aid, which I have to say is extremely important.

From the evidence that we have just heard, it is evident that, without information and some legal advice, people are completely confused. The evidence also points to the fact that, as you will see from medical organisations, the experience of detention is so traumatising that, after finding yourself in detention, to think logically about legal steps to defend yourself, to make out your claim and to understand your circumstances is almost impossible.

We go in to deliver workshops to people, and we provide representations to a proportion of the detainees. We provide advocacy on their behalf. Our position is that detention is unnecessary. You might want to hear more about that, but we really believe it is completely unnecessary, in the way it is being exercised.

The primary lesson is about the experience of arrest. We have cases where people have been detained in front of children, where children have experienced a parent being detained and taken away. Then we have obtained bail for the parent and later, again, the same parent has been detained in front of children. We have had situations where a parent is abroad in Nigeria attending a funeral; another parent is responsible for the children and calls us up because on a reporting occasion—and he has been abiding by reporting—he is re-detained.

When we speak to the Home Office officials to explain the circumstances, first they refuse to believe the story, and this is on a Friday afternoon. We then get evidence that the mother is abroad in Nigeria, and we warn the Home Office official that the children will be taken into care. This includes children for whom we had already provided evidence of trauma through separation from their parents. But still they refuse to release the father, and the children are placed into care.

These experiences go across the board and are repeated. I can hypothesise about why it is. One of the evident conclusions, as you have heard in the way Anthony, Paulette and their families have been spoken to and a lot of which I put down to the hostile environment, is that the experience and process of detention dehumanises both the person being put into detention and the detainer.

There is increasingly an attitude—and you will hear this truism among immigration lawyers—that, when the press go on the offensive on immigration, the attitudes of officialdom become much harsher. You will see that attitude in the way we have heard they have been spoken to, and in the way Home Office officials refuse to consider and accept evidence or to look into a case. For example, if someone says, “I have a partner and children”, they will receive a refusal, because they have not provided the evidence of the children’s presence or the birth certificates to show that they are a parent.

People think, "If I explain that I have been here since I was a child, and I have family and children of a young age, they are going to listen to me. Everyone will think that a family should not be separated. That is a logical thing. I do not need to do much more. I have said the important things". But that is not enough. You have to go the extra mile.

Listening to the stories just now, I thought that if I was the legal adviser, the starting point would be that you have a pre-existing right to remain. Beyond that, you have a right to remain under the Immigration Rules, because you have been here over 20 years and there are no criminal offences involved. You have an Article 8 right to family life, because you have been here for such a long time, or all your life, with your family. You have been to primary school here.

You have so many different types of grounds on which to remain that, for the detaining authority, those simple facts should, on the face of them, have rung alarm bells: "We're not going to be able to remove these people, because a lawyer or someone is going to put forward a message that we are going to have to consider these facts and to consider this information", albeit that the extra steps you could take would involve applications that cost money. For many people who are detained, that is a big problem, because sometimes applications will cost hundreds or up to £1,000.

You have people who have lived here for the first 10 years of their lives, which would normally allow you to apply to register and confirm that you are a British national. They might end up in care. They might have problems. They might be separated from their families. Their families might be British. They might get in trouble, and it is only when they are serving a sentence, maybe for a minor offence, that they are told that they are not British and that steps are being taken to remove them from the UK. They are shocked. They call us up, saying, "What's going on? All my mates can get out, but I am still here". There is a multitude of experiences. I could go on for ages, so I will stop there, but I would be quite happy to talk about the necessity of detention as well.

Baroness Hamwee: I am sure you could go on for a long time.

Pierre Makhlouf: Sorry.

Q16 **Baroness Hamwee:** No, please do not apologise. I first came across your organisation, Pierre, quite some years ago. Can you comment on whether things have got worse since the "hostile environment" became a term of currency?

Pierre Makhlouf: Absolutely. Unfortunately, things have got much worse. You have to remember that the hostile environment is multifaceted. Its aim is to exclude people from living a normal life in the UK, but because of that exclusion it also isolates people. It means that you do not have access to services; you do not have access to open a bank account; you can be

detained for driving a car even if you have a driving licence. It criminalises people and creates crimes that never existed before.

I worked in immigration law between 1989 and 2004. I met one person who was issued with a £40 fine for illegal entry to the UK. Now that offence is a standard one-year sentence, which results in an automatic deportation order. We have a raft of people who have worked, paid NI contributions, been charged with offences and spent time in prison. I will give you an example of a recent case. We had an EU national who was arrested for minor offences, served two days in prison, was fined £750 and is now facing deportation. The harshness is reflected by the number of vulnerable people who are detained and kept in detention.

Baroness Hamwee: I specifically wanted to know about the impact on detention—the rates, the periods of time, how people are treated and so on. I am sorry if I am straying too far, Chair.

Pierre Makhlouf: I have the figures here and I am very happy to read them out. You will see that, prior to the Shaw report, when Rule 35 reports were made into the vulnerability or health problems of people held in detention, the figures for people who were released from detention following receipt of those reports were quite low. Then, as the Shaw report was discussed, the figure for releases grew.

Subsequently, the adults-at-risk policy was introduced and the figures have systematically gone down, so that now very few people are released, even though we have people with reports reflecting absolute trauma from the point of detention. I mean severe mental health problems that I would describe as verging on torture, because people are so traumatised by the experience of detention and repeated detentions.

We have people who cannot be removed from the UK and are being detained. That is one of the most incredible things, and it is going on more than ever before. People are being detained really easily in situations where you would not expect it, because it is administratively possible.

Q17 **Baroness Hamwee:** That was going to be my next question. Should there be a form of judicial oversight at the point of detention?

Pierre Makhlouf: The system cries out for it. At the moment, the Home Office exercises judicial oversight internally. It is an internal decision and not subject to review. That is the initial decision.

Chair: You mean administrative detention.

Pierre Makhlouf: Yes, sorry, I mean administrative immigration detention. Thereafter, the Home Office internally makes the assessment on immigration detention and the lawfulness of continuing detention. If you are lucky enough to access a lawyer to help you with the bail application, that looks at absconding risk, perhaps. It looks at whether there are alternatives to detention, such as releasing someone pending their case.

Lawfulness and judicial oversight are desperately wanting in the immigration system.

The Government argue that there is judicial oversight through the process of habeas corpus, which assumes that there is a power to detain, or you release, and judicial review, which looks at the exercise of the power to detain. The problem is that you first need to find a lawyer who is willing and able to take on your case. In immigration removal centres, you get a half-hour meeting with a lawyer. That half-hour meeting, if you need an interpreter, is a 15-minute meeting. If someone is facing removal, with a history that is over 50 years of life, a lawyer has to decide: "Shall I take on this case? Well, if I do general advice, there's no entitlement to legal aid. Do I take a risk on full legal aid? There's a possibility of certificated legal aid. If I take the case for permission to apply for judicial review and I'm refused, I don't get paid. I'm going to have to read huge files and take lengthy instructions. A lot of work will have to go into this. I don't want the court to have a go at me, or not to be paid and my firm to have a go at me". That is the first obstacle.

Thereafter, even if as a lawyer you decide that a case is challengeable, you end up looking back and saying, "Yes, the initial arrest in these cases was unlawful. That experience of being held in detention was unlawful. Now we can talk about damages and compensation et cetera". But we have a traumatising experience that has gone on from day one and continuously for months, weeks or sometimes years. Judicial review penalises, but it does not prevent unlawful action in the future. Judicial oversight as a means of independent oversight, conducted not by the detaining authority but by an independent judicial authority, would make a difference.

Q18 **Chair:** Do you feel that the Home Office is prosecutor, judge and jury all in the cause, and then mistakes get made and injustice happens because there is no inbuilt ability to challenge the system?

Pierre Makhlouf: Absolutely, and because of the system the Home Office holds all the cards. It holds all the information. You write to the Home Office and you say, "We want full disclosure about all the information you've relied upon to detain someone, their immigration status, if they've committed a criminal offence. Whatever you are looking at, we want the information so that we can apply to you for bail and we can go to court and apply for bail".

Chair: What happens?

Pierre Makhlouf: The Home Office never ever discloses the information.

Chair: Whatever Anthony and Paulette are entitled to, they are entitled to see their files. We have set a lot of store by that.

Pierre Makhlouf: That is what we get told. We get told, "You can make a subject access request for a copy of the Home Office file". That can take over a month.

Chair: We are not going to make a subject access request. We are going to write to the Home Secretary.

Pierre Makhlouf: That would be fantastic.

Chair: You have probably had enough processes to last you a lifetime. This approach here is going to be process free.

Baroness Lawrence of Clarendon: When you started speaking, you said that your company runs a workshop. Is this workshop being run in the detention centre?

Pierre Makhlouf: Yes.

Baroness Lawrence of Clarendon: Do you have to seek permission from the detention centre to run them, and how long are these workshops run for?

Pierre Makhlouf: It depends on the centre. On certain occasions, we have had to pursue centres, such as Tinsley House, over many months to get access. There are different facilities provided. Sometimes we get access so that we can have a group and then we can follow up with one-to-one advice. Sometimes one-to-one advice is conducted. Usually there will be a morning or an afternoon, but sometimes a morning and an afternoon.

Baroness Lawrence of Clarendon: It would last the whole morning.

Pierre Makhlouf: It lasts two to three hours.

Q19 **Lord Trimble:** With regard to people being detained, have you any experience of the persons who are detaining citing a legislative basis for the detention?

Pierre Makhlouf: No, but people are usually issued with a form in the beginning that provides a checklist giving the reasons for their detention.

Lord Trimble: In our notes, we have reference to three statutory powers. Are you familiar with those powers?

Pierre Makhlouf: Yes, I am.

Lord Trimble: Are there any checks and balances or minimum requirements in them?

Pierre Makhlouf: As I said earlier on, the Secretary of State and the Home Office are required to act reasonably, or they will be subject to a judicial review challenge. On the one hand, habeas corpus looks at whether there is the power. If you are unable to prove your identity, or to prove that you have permission to be here, you can be subject to immigration control. Being subject to immigration control means that you can be detained. That is a simple way of putting it.

In making the decision, you have to act as a decision-maker. You have to act fairly. If you are being told information that indicates that a person might be lawfully here, there are two issues for you. First, perhaps they should not be detained because of that information. Secondly, it is unlikely that you will be able to remove them immediately. The purpose of detention

is not to act, as the hostile environment encourages, as a means of coercion. If you are unlawfully in the UK, you might be subject to all sorts of criminal powers, but that is part of the criminal process. Detaining someone for immigration reasons requires you to follow Home Office policy as a decision-maker. That is meant to be exercised fairly. Imminence of removal is one of the fundamental aspects of it, so that detention is not prolonged and unnecessary.

Lord Trimble: Chair, it is probably worth while looking at those three statutory powers and the terms set out there, with a view to whether we want to see the legislation improved and standardised, so it is clearer for people.

Chair: Thank you very much indeed, Pierre, Anthony, Janet, Paulette and Natalie. It has been a very, very illuminating session. Your evidence has been very, very important, for understanding both the reality of how the processes operate in practice and the impact on people, and what should be done about it. Thank you for giving your evidence. I am appalled at what has happened to you. I am full of admiration for your withstanding it and finding your way here to talk about it. Thank you very much indeed, on behalf of the Committee. We will write to the Home Secretary, and I am sure you will be entitled to see your own papers. Thank you.

Oral evidence: Oral evidence: Detention of Windrush generation