



Home Office

Home Secretary

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Rt Hon Yvette Cooper MP
Chair Home Affairs Committee
Committee Office
House of Commons
London
SW1A 0AA

14 May 2018

Dear Yvette,

This letter is in response to your letters of 17 and 27 April to the former Home Secretary. The Rt Hon Amber Rudd MP sent you an interim reply on 24 April and gave evidence to the Committee on 25 April. The Immigration Minister also appeared in front of you on 8 May and I will be appearing before the Committee on 15 May.

You will understand that I am not able to answer the specific questions relating to her personal knowledge of these events that you put to my predecessor following her evidence session on Wednesday 25 April. This letter provides an update on progress against the various issues on which you have requested information. Separately, the Permanent Secretary of the Home Office has written to you providing further detail on targets and the performance framework in Immigration Enforcement.

As I set out in my statement to the House on 2 May, the men and women of the Windrush generation have been seriously let down by the immigration system. As a second-generation migrant myself, this has affected me greatly. I have reflected publicly on the fact that members of my own family could have become caught up in this. So it is important to me personally that I do whatever it takes to put this right.

It is fundamental that we understand how we have ended up in this place. The Home Office has initiated an internal lessons-learned review with independent oversight and challenge, to look at what happened, why, and whether the right corrective measures are now in place. I have asked my Permanent Secretary to give the review the resources it needs and to aim to complete its work before the summer recess. I would be happy to provide you with a written update once the review has completed.

Work of the taskforce

To date, the helpline has taken over 11,500 calls, of which over 4,482 were identified as possible Windrush cases and referred to taskforce caseworkers. These caseworkers phoned the individuals back for an in-depth conversation and as a result over 1,482 appointments have been booked, resulting in 526 people receiving documents which confirm their status. The Home Office is not being prescriptive regarding the evidence of residency – either in respect of how many pieces of evidence are sufficient or what type of evidence should be provided. Instead I have ensured that the process is simple enough to

prevent anyone applying needing legal advice, and this is kept under review. The taskforce staff are proactively helping individuals to build a picture of their life here, including by contacting other government departments on their behalf for information they may hold which helps support the case.

You have asked about appeal rights for this group of individuals. A decision was taken by Parliament in the Immigration Act 2014 to simplify appeal rights. For claims that raise asylum or human rights issues, there will remain a right of appeal. For all other cases, people are able to apply for either an internal administrative review or a judicial review.

Currently, the Windrush generation are being granted NTL (No Time Limit) which confirms their existing status and they are issued with a Biometric Residence Permit (BRPs). BRPs issued to individuals aged over 16 and granted Indefinite Leave to Remain (ILR) expire after 10 years, in common with passports issued to those over 16. This is to ensure the facial image printed on card and stored within the chip is regularly updated to enable the BRP to be easily checked against the holder.

Eligible individuals who have confirmed their status can then, if they wish to do so, proceed to apply for British Citizenship if they were settled before 1973 and I will soon be bringing forward the necessary legislation to underpin this offer which will be free of charge and apply to citizens of Commonwealth countries who arrived here before 1973. As I said in the House on 30 April, I am happy to meet Henry Smith MP to discuss his Private Member's Bill on the status of former residents of the Chagos islands.

Enforcement action

We believe the majority of the Windrush generation, by which I mean those who were settled before 1973, already have documents; many will have British passports. The taskforce is working to resolve the situation of those who need help to establish their status.

You have asked whether individuals in the Windrush generation may have been wrongfully deported or detained. My department is now checking 8000 removals records dating back to 2002 to determine whether there have been any wrongful removals or deportations of Caribbean nationals from the Windrush generation. This is a cohort of Caribbean nationals who are now aged over 45 who have been removed or deported since 2002. My officials are reviewing these cases in great depth and I will provide you with an update at my appearance at the Select Committee. Many of the compliant environment checks are conducted by other agencies and bodies, for example landlords and letting agencies will conduct right to rent checks and employers or employment agencies will conduct right to work checks. Beyond individual cases which are drawn to our attention, it is therefore not possible to say how many of the Windrush generation may have been inadvertently affected by the compliant environment.

It's right that we do have a compliant environment to deter illegal immigration and protect public services. It is a policy that has been operated under successive governments. But it is also right we make a clear distinction between those that are here legally and those that are illegal. And it is therefore not acceptable that those of the Windrush generation have been impacted negatively by the compliant environment over the years; these are people who should have been recognised as being here lawfully.

In respect of the compliant environment measures, we are keeping under constant review the safeguards that were immediately put in place in light of the Windrush issues. This includes providing additional support to landlords, employers and public service providers

through the Home Office checking service to ensure we are not denying work, housing, benefits and services (including access to the NHS) to those in the Windrush generation. I can update the committee further on the steps we have taken at my appearance tomorrow.

In addition, we have updated guidance on [gov.uk](https://www.gov.uk) which encourages employers and landlords to get in touch with the Home Office Checking Service if a Commonwealth citizen does not have the documents they need to demonstrate their status. Employers are already contacting the Checking Service for additional support. The Taskforce will contact the individual concerned to help them prove their entitlement and the employer or landlord will be issued with a positive notice to enable them to employ someone or rent out a property.

The use of the driving licence search and seizure powers that were being trialled by the police and Immigration Enforcement in West Yorkshire and Kent has been paused. The results of the trial are now being evaluated and the outcome of that evaluation will inform future decision on whether to roll out the powers nationally. Prior to any roll out, we will consult on the guidance to be issued to police and immigration officers.

Compensation

Regarding the compensation scheme, as the first part of the consultation process, I have published a call for evidence (which will run until 8 June) from those who have been affected on gov.uk. A copy has been placed in the House Library. As well as receiving written contributions I have asked officials to reach out to the individuals and communities most closely affected, listen to their concerns directly and, in particular, understand properly how we might address them through a compensation scheme. Once we have listened and considered those contributions, I will then launch a public consultation on proposals for the detail of the compensation scheme as quickly as possible.

As set out in my Written Ministerial Statement of 10 May, I will appoint an Independent Person to oversee the running of the scheme when it is in place. Martin Forde QC has agreed to provide independent advice on the design of the scheme. He is himself the son of Windrush parents and brings a wealth of experience in complex public law and compensation matters. I am confident that he will ensure that the interests of those affected will be properly represented and reflected in the scheme.

Correspondence and guidance

You have asked for copies of any correspondence from other government departments which raised concerns about the treatment of this cohort of people. My officials have found no ministerial correspondence from other government departments which raised explicit concerns about the Windrush cohort.

You have also specifically asked about information received from the FCO in May 2016 which raised concerns of Caribbean Commonwealth High Commissioners. I believe this relates to a diplomatic telegram which provided a general report on the UK Caribbean Ministerial Forum in the Bahamas. It was distributed to a wide range of government officials, was not specifically addressed to the Home Office and only contains a brief reference to immigration matters.

As I set out in the House on Wednesday 2 May we have been working with other government department and partner agencies to ensure a coherent and collaborative response to the Windrush issue. The Immigration Minister hosted a cross-government meeting on Thursday 3 May to update colleagues and pick up outstanding concerns and my officials are setting up a regular cross-government forum to ensure we are keeping our

response under review. I enclose a copy of the guidance we have issued to other government departments in light of this issue and we will provide further guidance in due course.

Wider actions

In order to prevent any repeat of what has happened to members of the Windrush generation, the Home Office is already taking a number of steps. We will set up a new contact centre – in addition to the current Taskforce arrangements – which will help anyone who needs help navigating the immigration system. This will be staffed by experienced caseworkers who will offer expert advice and identify a systemic problem much more quickly in the future.

The Home Office will also provide 50 senior caseworkers, so that junior caseworkers will be able to refer cases up to a senior caseworker who can consider more complex cases and advise whether it is appropriate to exercise discretion.

I hope this reply provides answers to the issues you have raised. I will be making further announcements about the policy and legislation we need to put in place and I look forward to setting out further detail to the Committee on the progress we have made.

Finally, I have committed to writing to you on a monthly basis to provide you with an update on the work of the Taskforce. I intend to provide you with the first of these updates in June.

A handwritten signature in black ink, appearing to read 'S. Javid', with a small comma at the end.

Rt Hon Sajid Javid MP



25 April 2018

Guidance for other government departments and public authorities administering benefits and services

On 23 April 2018, the Home Secretary announced new measures to support members of the Windrush generation who have been in the country for decades but find themselves unable to evidence their legal right to remain in the UK.

Individuals who have lived in the UK permanently since before 1973 and who have not been away for long periods in the last 30 years, have the right to live and to work in the UK.

Individuals who came to the UK after 1 January 1973, but before 1988 might not have an automatic right to be here, but may be allowed to stay here permanently. They will have the right to work in the UK and access benefits and services.

A Commonwealth taskforce has been set up in the Home Office to help those affected. The taskforce is handling cases sensitively and swiftly and will help people obtain evidence to prove their status in the UK.

In the meantime, we are urging other government departments and public authorities to exercise particular care when responding to applications for benefits and services from anyone they believe may fall into one of the two cohorts outlined above.

Frontline workers who are unsure of an individual's status should direct them to the Commonwealth taskforce so we can help with the necessary documents to prove their right to be in the UK. As part of that process, the Home Office may need to contact other government departments and agencies to help verify an individual's UK footprint.

Freephone: 0800 678 1925

Monday to Saturday: 9am to 5pm

Sunday: 10am to 4pm

Email: commonwealthtaskforce@homeoffice.gsi.gov.uk

More information at www.gov.uk/windrush

Home Secretary Statement to Parliament (April 2018)

On 23 April 2018, the Home Secretary, Amber Rudd, made a [statement to Parliament](#) about new measures to establish a permanent and sustainable solution for members of the Windrush generation who have been in the country for decades but found themselves unable to evidence their legal right to remain in the UK.

Amber Rudd announced that the Home Office will:

- waive the citizenship fee for anyone in the Windrush generation who wishes to apply for citizenship – this applies to those who have no current documentation, and also to those who have it
- waive the requirement to carry out a Knowledge of Language and Life in the UK test
- waive the fee for the children of the Windrush generation who are in the UK who need to apply for naturalisation
- ensure that those who made their lives here but have now retired to their country of origin, are able to come back to the UK – the cost of any fees associated with this process will be waived
- be setting up a new scheme to compensate people who have suffered loss – this will be run by an independent person
- establish a new customer contact centre, so anyone who is struggling to navigate the many different immigration routes can speak to a person and get appropriate advice
- ensure that people who arrived after 1973 but before 1988 can also access the dedicated Windrush team so they can access the support and assistance needed to establish their claim to be here legally

Private Secretary to the Home Secretary