



Home Office

Home Secretary

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

25 May 2018

Dear Yvette,

At the evidence session on Tuesday 15 May I committed to provide further information on a number of issues you raised with me in respect of your inquiry into Windrush. Information that you have requested on staff bonuses and targets, wrongful detentions other than Windrush cases, and the lessons learned review will be provided separately by my Permanent Secretary. I have sought to answer each of your questions under thematic headings for ease.

On 24 May, I laid a Written Ministerial statement which sets out the Government's intention to bring the "Windrush Scheme" in to force, to give effect to the measures announced by my predecessor on 23 April. This will ensure that members of this generation, their children born in the UK and those who arrived in the UK as minors will be able to apply for citizenship, or various other immigration products, free of charge.

This Written Ministerial Statement also provides an update on the response we have received to the compensation scheme's call for evidence and further information on the lessons learned review. I have provided a copy for your ease of reference.

Protection under the 1971 Act

You asked for further clarity on who is protected by the 1971 Act. The protections in the 1971 Act (both those that provide for indefinite leave and those concerned with exemption from deportation) only apply to those, of any age, who were settled in the UK before 1 January 1973. However, both the former Home Secretary and I have confirmed that the Windrush scheme will also apply to the children of the Windrush cohort, where they arrived in the UK before they were 18.

Historical reviews – removals

As I said when I appeared before the Committee, initial checks have identified 63 Caribbean individuals now aged over 45 who have been removed who *could* have entered the UK before 1973 and therefore *might* have been protected by the 1971 Act. There are 32 foreign national offenders and 31 administrative removals. The 31 individuals are being proactively contacted via the Taskforce where we have contact details. We have so far made contact with 3 and are asking High Commissioners to assist where we do not have contact details. When we reach these individuals they will be invited to contact the Taskforce.

Historical review - detention

My officials have now also begun checking all detentions, dating back to 2002, of Caribbean nationals now aged over 45 (i.e. born before 1.1.73), to establish whether any could have entered the UK prior to 1973 and therefore might be protected by the 1971 Act. As with the removals exercise, this is a complex piece of work which involves manually examining thousands of cases in order to see whether there is anything on the record which suggests that someone could have been here before 1973 – likely to be a much smaller number. Officials believe that their initial investigations are likely to take between 6-8 weeks.

Immigration reporting requirements

We continue to review all cases of those who are reporting. Staff in reporting centres have been instructed to escalate, to senior managers, cases involving individuals who *may* form part of the Windrush cohort and will refer these to the taskforce where appropriate.

Individuals denied re-entry

There are people of the Windrush generation who, having worked all their lives in Britain, have retired to the country of their birth. But, they retain strong ties to this country, which we should respect and nurture. As stated in the Written Ministerial Statement there is already provision in the immigration system for people whose permanent residence status has lapsed, through a prolonged absence from the UK, to resume their residence here, by obtaining a returning resident visa. It is limited to people who have spent most of their lives in the UK. I am adjusting the visa rules to ensure they are interpreted generously in respect of the Windrush generation, who spent a considerable time in the UK and who may have been unaware that they were forfeiting residence here when they left. This will be made available free of charge. If individuals would just prefer to come back to visit friends and family in the UK, they will be issued with a 10-year visit visa, free of charge. To date, the Taskforce has already supported 11 individuals back to the UK and is handling 226 enquiries

For individuals overseas there are a variety of ways by which they can contact the Taskforce. They can choose to email the Taskforce and receive a call back. They can phone the helpline direct, details will be quickly taken to keep the call brief and a call back will follow. We are also able, on an exceptional basis, to make arrangements for people to attend a Visa Application Centre to discuss their case.

The Windrush scheme is also being supported with communications to ensure those affected in the UK and overseas are aware of the support available to them. We are working with Caribbean and Commonwealth embassies and High Commissions to distribute key messages about the taskforce and compensation scheme call for evidence; we will proactively communicate the Windrush scheme online application form for eligible individuals who are not in the UK through these channels.

Due to the very nature of the Windrush issue itself we are unable to confirm the number of individuals who may not have acquired evidence – due to no fault of their own - of their settled status in the UK prior to 1973. I continue to urge individuals to contact the Home Office, to discuss options and next steps in their case.

Citizenship fees

The 2014 Immigration Act provides the current powers for the Home Office to set and charge immigration fees, enabling the Department to take account of not just the cost of processing an application, but also factors such as the benefits likely to accrue to a person

from a successful application; wider immigration system costs; the promotion of the UK's economic growth; and international agreements. In line with the requirements of the 2014 Act, the maximum amounts that the Home Office can charge for specific categories of service are also agreed by Parliament through secondary legislation which is subject to affirmative debate in both houses. With Parliament's approval, the Home Office has been setting immigration fees at above-cost since 2007. Any income received which is above the cost of processing an application contributes towards the operation of the wider immigration system; reducing the burden on the taxpayer to part-fund the system.

Details of fees charged for all services, and their unit costs, are published on gov.uk. I have included an annex to this letter setting out the specific fees (and the processing costs) that you have requested.

Tier 1

As you are aware, I have asked the Immigration Minister to conduct a review of the cohort of cases who arrived under the Tier 1 General route and were refused due to discrepancies with their HMRC records. I expect the review of the initial cohort of applications identified to be completed by the end of May after which I will report back to the Committee

I can confirm that all applications potentially falling for refusal under the character and conduct provisions of paragraph 322(5) in the Tier 1 (General) ILR and 10-year Long Residency routes, where the applicant had previously been in the Tier 1 (General) route, have been put on hold pending the findings of the current review.

As part of the review of these cases we are checking individual case records to identify any applicants who were removed having been refused Indefinite Leave to Remain under paragraph 322(5). We have identified 19 individuals who were refused Indefinite Leave to Remain and subsequently made voluntary departures from the UK. One has since been issued with a visa to return to the UK having applied under a different provision of the Immigration Rules. We are also analysing further data regarding other individuals who were refused Indefinite Leave to Remain having applied under the 10-year Long Residency provision and who were previously in the Tier 1 (General) route to determine how many might have been refused under paragraph 322(5) and were subsequently removed or made voluntary departures from the UK.

You have also asked how many individuals in this cohort are challenging their decisions. Between 1 January 2015 and 31 December 2017, 238 applicants sought to challenge the refusal of an application for Indefinite Leave to Remain in the Tier 1 (General) route through a Judicial Review, of which 189 were against a refusal on paragraph 322(5) grounds. We are also reviewing appeals data for those in the 10 year long residency route who were previously in the Tier 1 (General) route and we will set out our full findings as part of the review that we expect to complete by the end of May.

Staffing

The Taskforce currently consists of approximately 150 staff, who have been seconded from a number of areas of UKVI, including Premium Service Centre, Citizenship, Work and Study commands. Of these around two thirds deal with the casework elements of the process. The remainder run the helpline and associated outreach work. We are carefully monitoring the impact that the secondments are having on the business as usual areas that the staff came from and are considering what the shape of a long-term unit for this work make take.

UKVI is committed to providing a better service to its customers and the public. As announced by the former Home Secretary, UKVI is establishing a customer contact centre to advise customers on the most appropriate immigration routes for their circumstances. This will be in place by July. UKVI is also in the process of establishing a UKVI Chief Caseworker Unit with recruitment already underway to identify a network of 50 senior caseworkers, some of whom will form this unit and some of whom will be embedded in the business, to support colleagues in making complex case decisions.

In addition, you asked about recruitment to UKVI in relation to EU Exit work. Recruitment is underway to bring existing UKVI European casework staffing levels to approximately 1500 ahead of the EU Exit Settlement Scheme launch at the end of this year. We are making good progress and already have over 1200 who are either in post or have completed the recruitment process and are awaiting start dates.

I am clear that all the operational teams within the Home Office must have the resources they need to run an efficient and effective migration system, tackle illegal immigration and keep the UK safe. As I have made clear, we will do whatever it takes to put this right. That means placing our focus and our resources onto dealing with this issue and helping those who have been affected by it.

I have committed to write to you on a monthly basis to provide you with an update on the work of the taskforce. The first of these updates will be submitted to you in June.

Yours sincerely

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

Rt Hon Sajid Javid MP

Annex

2018-19 fees and unit costs for child citizenship registration applications, or those where the child is on the route to citizenship

Service	Fee	Estimated Unit cost
Limited leave to remain (<i>Note 1</i>)	£multiple	£multiple
Indefinite Leave to Remain (<i>Note 2</i>)	£2,389	£243
Child Registration for British Citizenship	£1,012	£372

Note 1: There are multiple limited leave to remain routes that a child who qualifies for citizenship might pass through. Limited leave to remain fees are waived for children who are destitute.

Note 2: The Indefinite Leave to Remain fee is waived for children in Local Authority care and may be waived in some Human Rights cases.