

WNO Public Meeting Questions 17th February 2022

Organisations that was not successful for funding by voices for change was not notified can that be addressed and those applications not successful - provide feedback as to how those unsuccessful applications can be improved. G Monk plz

The independent grant administrator, Voice4Change England have sent feedback letters to all unsuccessful applicants who applied to the Windrush Community Fund. Voice4Change ensured their feedback included why the application was unsuccessful. They also provided suggestions on what applicants can do to strengthen and improve applications should they wish to apply for funding from any organisations in the future.

At the last WNO Public Engagement Meeting in November I raised a question about individuals that were born in the UK, and are British, but were locked out of the UK with their parents when they travelled abroad, due to the 2 year rule. However, there is not a category in the WCS specific to this cohort. The HO said they would look at their policy and feedback to us. Any update on that please.?

The Scheme does already cater for people in this cohort in circumstances where they were impacted owing to either they or their parent(s) being wrongly prevented from returning to the UK.

Every case is different, and it is difficult to say exactly what a person's entitlement to compensation might be without understanding the full details of their case.

I am happy to clarify the general position:

- British citizens are completely free from immigration control and are not subject to the 'two-year rule'. If a British citizen was wrongly prevented from re-entering the UK, they may be entitled to compensation as a primary claimant.
- If a British citizen was not personally prevented from returning, though suffered an impact owing to their parent(s) being wrongly prevented from returning to the UK, they may be entitled to compensation as a close family member claimant.
- If a British citizen travelled overseas as a child (in the care of parents who were not themselves British), it is possible that their parent(s) would lose an automatic right to return to live in the UK after more than two years abroad. The fact that the child is British would not necessarily mean that the parents had a right to return to live in the UK. In practice, this may mean that the parent(s) applied for an appropriate visa to return to the UK, or alternatively that the family continued to live together outside of the UK. In these circumstances, it may be the case that no one was incorrectly prevented from returning to the UK, and so the child would not be entitled to compensation.

Apparently the 2yr rule as only impacted no more than a dozen applicants ? Which was identified by the Home Office Ben Shotnes from the HOME OFFICE made mention of that.

The change to the Windrush Scheme and Compensation Scheme reflects the fact that the 'two-year rule' has always applied to Commonwealth citizens, just as it would have done to people of most other nationalities. However, previous versions of the Windrush guidance incorrectly stated that some Commonwealth citizens were exempt from the rule prior to 1 August 1988. We have corrected the guidance to confirm that this was not the case.

As a result of this correction, we now know that some people who we may previously have believed to be eligible for an award are not actually entitled to compensation. However, we acknowledge that it would be unfair for individuals who had already made compensation claims to lose out owing to this error coming to light. For this reason, we have amended the Compensation Scheme to ensure that individuals who had already made a claim will receive what they previously would have done before this correction was made. In a previous session, we stated that a small number of outstanding compensation claims were impacted in this way. While we did not confirm an exact number (and cannot, as not all outstanding claims have been concluded) we indicated that a small number of claims are affected, possibly in the region of a dozen.

How was the information provided to commonwealth citizens when citizens did not get any written documents on 2 year returning rights. An Entry clearance officer stated to my client she was given this information to her on her ILE - This is incorrect

It is important to clarify that the error in our guidance – which prompted our update to the Windrush Schemes - was made in 2006, nearly 20 years after the relevant period. When people travelled to and from the UK prior to 1 August 1988, the Immigration Rules and guidance in place at that time all correctly stated that individuals would lose their automatic right to return to live in the UK after more than two years overseas. This was the case from 1962 onwards, and so the 'two-year rule' was long-established and indeed in place before many Commonwealth citizens first came to the UK.

We cannot say what each individual person may have been told about the two-year rule at the time of leaving the UK, over the 60 years in which it has been in force. However, there is nothing to suggest that individuals were wrongly told or given the impression, by Immigration Officers, that they would be able to return to live in the UK even if they remained abroad for more than two years.

About citizenship: I left the UK with a British Dark passport. It is written I am a citizen and I had a RoA stamped in it, If Windrush was a mistake why is the HO not honour my Status? I am not getting any response from the Home Office. I am living in Canada

The status of individuals was impacted by changes to create newly independent Commonwealth countries will depend on individual circumstances. If you can pass on the contact details of this individual, then the team could make contact and provide advice on these individual circumstances?

How does the Windrush scheme respond to consular offices abroad turning away victims at the gate and refusing to entertain support enquiries for a parent to return with her UK children whilst caring for her husband who had severe support needs and never recovered. Why was there no support for this family to return and for the father to get support to return as it impacted their UK sons. What does the Windrush Scheme say about the rights of the child whilst being exiled abroad?

Consular Officials provide advice and support for individuals abroad about how they can return to the UK if they wish to do so. If you can pass on the contact details of this individual, then the team could make contact and provide advice on these individual circumstances?

Section 1(5) of the Immigration Act 1971 protected Commonwealth citizens from losing their ILR until August 1988. Every good immigration lawyer knows this. I do not know one single Windrush victim in Nigeria who was told to return within 2 years. They were also never ever offered returning resident visas. Moreover all the Windrush victims that I know in Nigeria have been refused returning resident visas under the Windrush Scheme but other victims in other countries have been successful. Therefore, this is clearly discrimination against Nigerian victims. Now the rules have been re-interpreted! I will fight this with all my strength. My friends and relatives will not be treated like trash.

Updates have set out clearly why the correction to briefing and guidance have been necessary, comments noted. Details can be found here;

[Update to Home Office Casework Guidance - Home Office in the media \(blog.gov.uk\)](https://www.blog.gov.uk/2018/07/20/update-to-home-office-casework-guidance-home-office-in-the-media/)

The Home Office seems to have a culture of decisions being made and not communicated to the "victim", a practice which is cemented in Law as per the Nationality and Borders Bill regarding deprivation of citizenship which then denies a human right to appeal.

It is vital, including to our national security, that we ensure that just because we cannot immediately tell a person that they are to be deprived of citizenship, it doesn't make the decision any less valid or prevent the deprivation order being made. The Nationality and Borders Bill does not change any existing right of appeal nor widen the reasons for a which a person could be deprived of their citizenship. Further details can be found here:

[Nationality and Borders Bill: Deprivation of citizenship factsheet - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/factsheets/nationality-and-borders-bill-deprivation-of-citizenship-factsheet)

The main reasons why victims, especially those that are outside the UK are reluctant to apply to the WCS is the means-testing of the preliminary payment. As soon as eligibility is established why not pay the preliminary payment.

The Preliminary Payment is not means tested. The only requirement is that there needs to be sufficient evidence that a claimant will qualify under the category related to impact on life.

What is the HO response to the claims that they are not fit to carry out this work and should be moved to a different org. outside of the gov.

Moving the operation of the Scheme from the Home Office would risk significantly delaying payments to people. We will continue to ensure members of the Windrush generation receive every penny of compensation to which they are entitled. Since the Windrush Compensation Scheme was overhauled in December 2020, the Home Office has been able to secure compensation for more people more quickly. We have offered or paid more than £43 million to Windrush victims, with more claims being finalised as quickly as possible.

Please can the Home Office show how the CaseWorkers are monitored as the mistakes are factual evidence that are being ignored in the Clients Claim.

Caseworkers are provided extensive training and mentoring and are not signed-off to complete cases unsupervised until they have achieved a satisfactory standard. Once signed off work is subjected to random quality sampling to provide assurance. If a customer is not happy with the decision outcome or quality, then there is free independent review process available both internally (Tier 1). Then if still not satisfied with the outcome, a review by an Independent Adjudicator can be requested (Tier 2).