

The Home Office Scandal

A Manifesto for Windrush Justice

**ACTION FOR RACE
EQUALITY**



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Right: The Empire Windrush, Tilbury, 22 June 1958

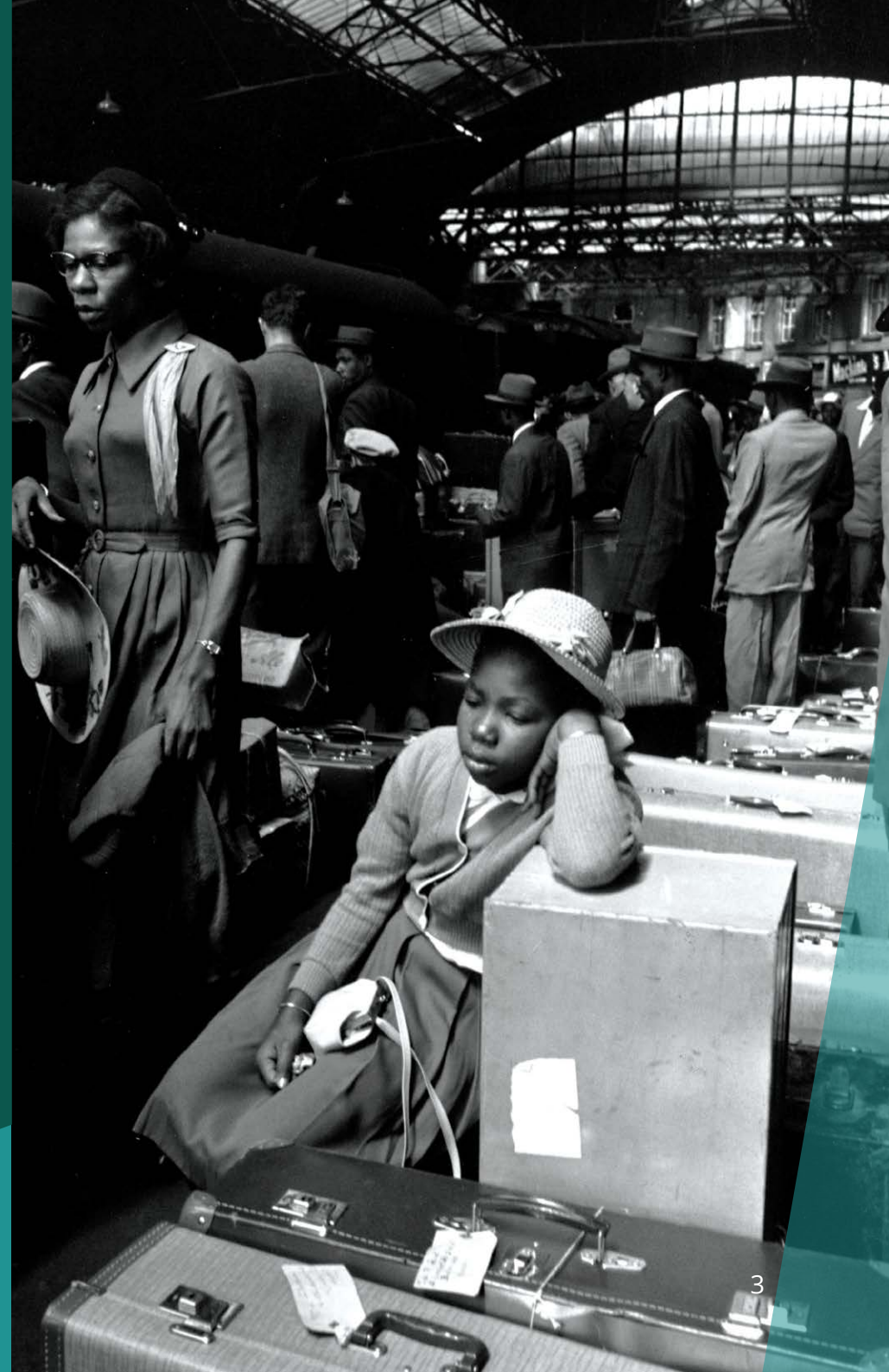


Who we are

Action for Race Equality champions fairness, challenges race discrimination and pioneers innovative solutions to empower Black, Asian and Mixed Heritage communities through education, employment, and enterprise. Through our projects, we support Black, Asian and Minority-led organisations through onward grant giving and capacity building, and in our policy work on tackling race disparities in education, employment, and criminal justice.

Through our **Windrush Justice Programme**, we fund and do capacity building work with 20 Windrush advocacy groups across the UK covering Scotland, the Midlands, the Northwest, and London. These small, grassroots groups, embedded in their communities, support people applying to the Windrush Scheme for Documentation and the Windrush Compensation Scheme. These groups have supported at least 350 Windrush cases over the past year, 294 of which were eligible for one of the Windrush schemes.

Their first-hand experience, consultative parliamentary events held by Justice for Windrush Generations, and a survey of over 1,200 people by Liverpool Advocates for Windrush who are on the programme, has informed this manifesto.



■ Why Windrush matters

The Windrush Scandal is a shameful indictment of state failure. Six years ago, it made international news and became a national scandal, causing widespread outrage at the mistreatment of this group of predominantly but not exclusively Caribbean elders and their families.

Changes to immigration and citizenship law since 1948 left those affected unable to demonstrate their right to live and work in the UK. The failure of the Home Office to recognise that these changes

had affected Black people in the UK differently than they had other racial and ethnic groups had a devastating impact. People lost their jobs and homes, were trapped abroad away from family and friends, and prohibited from accessing their full pensions, life-saving hospital treatment, further education and their liberty.

Following a successful campaign led by Windrush survivors and activists, the government admitted that this group were wronged by successive governments and took action. The Home Office launched the Windrush Scheme for Documentation in 2018 and the Windrush Compensation Scheme (WCS) in 2019 to ensure people affected by the scandal could access their entitlements and be compensated for the impact on their livelihoods. In 2018, an independent review into what went wrong led by Wendy Williams was commissioned.

The Windrush Scheme for Documentation is making good progress, but nearly a third of beneficiaries are older EU citizens who were not affected by the scandal, more than any qualifying Commonwealth nation. Despite this progress, justice has not been delivered. The Compensation Scheme is complex, slow and retraumatises survivors. In January 2024, in an answer to a Parliamentary question, Tom Pursglove MP, then Minister of State for Legal Migration and the Border, stated that at least 53 claimants have died before receiving compensation.



Former Windrush passengers and members of the RAF at the Imperial War Museum, 2008



The next government can right the wrongs of the Windrush Scandal if it has the will, with a programme of recognition and reconciliation that uses the Windrush Lessons Learned Review (WLLR) as its basis.

It has the chance to make the Windrush Schemes worthy of the people it is there to serve and honour their pain by making the process prompt, proactive, frictionless, and fair.

Only then, can we achieve justice for the Windrush Generation once and for all.



Above: Members of the Windrush generation and their families who attended a meeting with MPs at the House of Commons, May 2018

Top left: Patrick Vernon OBE, Windrush Campaigner; Dawn Butler MP for Brent Central

33%

Beneficiaries are older EU citizens who were not affected by the scandal

53

Claimants have died before receiving compensation

What we want

We want the incoming government to sign up and commit to the Manifesto recommendations in its first 100 days in office and to have taken measurable action during its first year.

■ Citizenship for all Windrush families

At its heart, the Home Office Scandal is the inability to demonstrate your right to live, work and access public services. Resolving this is central to achieving justice for those affected and will reaffirm a sense of belonging that should never have been in question.

The Windrush Scheme for Documentation was set up in 2018 following public outcry at the plight of Windrush survivors. It was set up primarily to issue documents to people affected by the scandal, so they can demonstrate their right to citizenship.

The current scheme has provided documents for over 16,800 people.¹ It requires individuals to self-identify and apply to the Home Office. Around a third of people that the Home Office has provided with documentation have been EU citizens.

It is good that the scheme is benefitting a wide range of people. It is not however benefitting the intended target or audience, which is people from the Commonwealth and particularly the Caribbean.

There is poor data on how many more people would benefit from documenting their status, but it is likely to be a **minimum of 57,500 people and their children** and could be significantly higher.²

The next government should

- **Give British citizenship and waive passport fees** (with the option of a certificate of registration instead) to all Windrush survivors that arrived before 1 January 1973 and their children.
- **Make the process as proactive as possible** and rely less on survivors coming forward.
- **Exclude the Good Character requirement** from this process.
- **In line with WLLR recommendation five**, relevant data should be reviewed to see if there is scope to simplify the Windrush citizenship process and proactively identify people who qualify, including those wrongly caught up in provisions for foreign national offenders, who may in fact be British.
- **Implement an amnesty** for all those from the Commonwealth who have lived in the UK for more than 30 years. This would support the complex cases that result from successive immigration acts and the differing dates of independence of Commonwealth nations.



16,800
people have been provided with documents for the Windrush Scheme for Documentation

■ Make the Compensation Scheme faster and fairer

Legal support for Windrush compensation claims

The Windrush Compensation Scheme is widely reported as unwieldy and complex. Although the Home Office claims that legal assistance is not needed, testimony from claimants and the people that support them, such as Windrush advocacy organisations and community lawyers make clear that this is not the case.

The application form for a **primary claim is 44 pages** long and the requirements for evidence dating back over long periods are difficult to meet. A survey of lawyers providing support to Windrush claimants by the legal membership

organisation JUSTICE, found that most cases required more than 20 hours work.

The Home Office estimated that their caseworkers would take 30 hours to assess cases at the outset of the Scheme although in practice the average is 154 hours, reflecting the complexity of the Scheme.³

Since the Compensation Scheme launched in April 2019 up to the end of March 2024, £85.86 million has been paid across **2,382 claims**. Over the same period, **over 4,000 claims have been rejected** and offered nothing.⁴



If lawyers assisted claimants with their applications, there would be a **saving to the Home Office in reduced caseworker time** and a reduction in the number of unmeritorious applications and better results for claimants.⁵

The Lambeth Children's Home Redress Scheme and proposals for the Infected Blood Compensation Scheme include the provision of legal advice and representation throughout the claims process.⁶

Top: Representatives of the Windrush generation during a meeting with MPs at the House of Commons, May 2018

Left: MP David Lammy speaks during a meeting with representatives of the Windrush generation at the House of Commons



The next government should

- › **Provide legal aid or alternative funding for legal representation** to better support claimants through the application process. For example, an approved panel of legal firms and professionals providing payment to appropriately qualified legal professionals, with a funding scheme from the WCS budget.
- › **Establish a right of appeal to an independent tribunal** to improve decision fairness and transparency.
- › **Include a review option for claimants** who applied without legal support and/or accepted low offers.
- › **Use the benefit of the doubt test for Windrush applicants.** This already applies in asylum law, if certain conditions are met and an asylum seeker is unable to provide documentary or other evidence in support of the claim.

154hrs

How long it took
Home Office
caseworks to
assess cases

£85m

has been paid to
2,382 claimants since
April 2019

4,000+

claims have
been rejected and
offered nothing

Baroness Floella Benjamin (right) speaks during the unveiling of the National Windrush Monument at Waterloo Station

Fair payouts that reflect the harm caused

Even if a compensation claim is successful, it does not fully reflect the true scale of the losses survivors have suffered. It is difficult to ascribe a monetary value to what has been lost; the years separated from loved ones; the funerals missed; the careers destroyed. Reparative justice should never be reduced to financial payment alone. It is, however, central to true restitution.

The scandal has led to **reduced pension pots** for those who lost their jobs. While state pensions have now been included in the Compensation Scheme, private pensions have not. Many drew their private pensions early to make ends meet. In some cases, a loss of employment may have also led to the loss of a private pension.

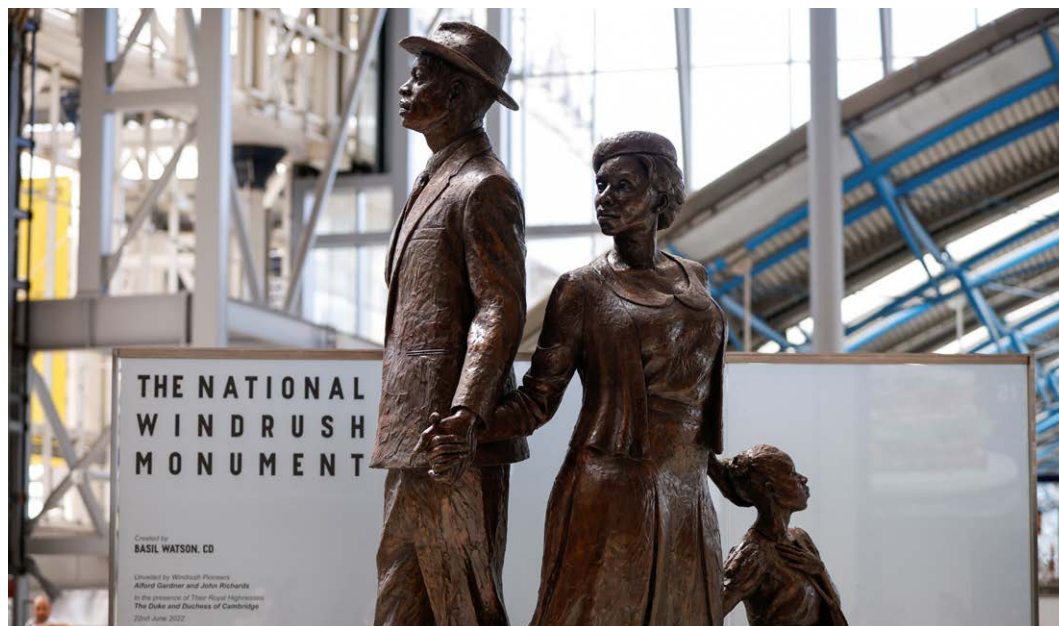
The Compensation Scheme does not consider the wider cost of losing a job, such as the loss of a career or

promotion opportunities and the resultant higher earnings.

Calculating these losses is complex but possible. Analysis by JUSTICE shows that there is precedent for it from the Vibration White Finger Compensation Scheme, personal injury claims and calculations used at employment tribunals. Modelling by Age UK shows that defined contribution and defined benefit pension losses can be calculated.⁷

The next government should

- › **Include defined contribution pension losses** into the Compensation Scheme.
- › **Work with experts such as the Actuarial Sciences Institute** to work out how defined benefit pension losses can be calculated and include them in the Compensation Scheme.
- › **Work with the Royal British Legion** to ensure veterans' defined benefit pensions are compensated accurately.
- › **Look to current employment law** that includes provisions for calculating loss of future earnings at employment tribunals and use this method for the Compensation Scheme.
- › **Look to personal injury claims** and how they calculate losses of bonuses and overtime, loss of promotions and career progression, loss of statutory rights (e.g. unfair dismissal), and wage inflation and use this to inform a renewed Compensation Scheme.
- › **Publish time standards** to ensure claims and Tier One Reviews are being dealt with within three months.



Rebuilding trust

In 2020, research commissioned by the Home Office found that one of the main barriers stopping Windrush survivors applying to the schemes was a lack of trust.

Fear that any engagement with the Home Office may lead to being detained or deported acts as a deterrent, even if the applicant is eligible. The Home Affairs Select Committee report came to the same conclusion and added that the survivors feared being re-traumatised by the process.⁸

The progress update carried out by Wendy Williams in 2021 that evaluated the Department's efforts to deliver on the lessons learned recommendations, found that they had made adequate headway. However, the disparity between the number of successful applications for citizenship and compensation claims is a cause for concern.



The next government should

- › **Remove the Windrush Compensation Scheme** from the Home Office and into a more neutral government department or an independent body.
- › **Make clearer that an application** to the Windrush Schemes will not result in information being passed on to Immigration Enforcement.
- › **Pause deportations** to the most affected countries and pause immigration raids in key demographic areas across the UK.
- › **Deliver larger scale advertising campaigns** on TV, radio and billboards in key areas including outside the UK and in culturally specific media outlets.
- › **Engage more effectively with High Commissions** and embassies in affected countries to ensure they have a clearer understanding of the scandal and are ready to assist and review applications.
- › **Fund NGOs in Commonwealth countries** to promote the schemes and connect applicants with UK-based support services.
- › **Fund community groups and advocates in the UK** that support Windrush claimants through the beginning of the process.
- › **Share case studies of successful claims** so people get a better sense of who is eligible and to encourage more eligible claims.
- › **End the hostile environment** and create a fair and lawful migration system underpinned by human rights principles.



Repairing the harm

Implement the lessons learned review recommendations

The Windrush Lessons Learned Review (WLLR) was a robust and detailed review which identified the critical failings of the Home Office and provided detailed recommendations. Rebuilding trust and reconciliation are central themes that thread through all the recommendations, particularly recommendation three: to host reconciliation events.

This was one of the three recommendations that the then Secretary of State dropped, alongside recommendations nine and ten: to introduce a Migrants' Commissioner and review the remit and role of the Independent Chief Inspector of Borders and Immigration (ICIBI).⁹



David Neal, the former Chief Inspector expressed his disappointment that these recommendations were dropped and described it as 'a missed opportunity' to open the Home Office up to external scrutiny.¹⁰

Dropping these recommendations, designed to redress the historic mistreatment of the Windrush generation, breaks the government's promise in 2018 to 'put right the wrong these people have suffered' and in 2020 to implement all thirty of the lesson learned review recommendations.¹¹

The next government should

- › **Implement all thirty of the WLLR recommendations**
- › **Give the Chief Inspector the power to publish their findings** and require Ministers to explain and account for any deviation from their recommendations.

Recommendations dropped

(from the Secretary of State, 2018)

1

Host reconciliation events

2

Introduce a Migrant's commissioner

3

Review the remit and role of ICIBI



■ A Statutory inquiry into the Home Office Scandal

Successful reconciliation processes must address the pain and suffering of victims, render justice, provide remedy, and ensure truth. Survivors should have the space to share their stories and how their experiences have impacted them.

Analysis by Kings College London of three other contemporary compensation schemes set up in response to grievous state harm, the Lambeth Children's Home Redress Scheme, the Horizon Shortfall Scheme and proposals for the Infected Blood Compensation Scheme all sit within wider statutory inquiries.

For example, the Post Office Horizon IT Inquiry gives people the space to tell their story, document it for posterity as part of a legacy programme and evaluates whether the lessons from the previous independent inquiry have been learned and the recommended cultural change necessary from the findings has been embedded.

The next government should

- **Have a statutory inquiry with the power of subpoena** that gives people the space to tell their story and be heard by the perpetrators of harm.
- **Investigate the causes and impact** of early and premature deaths of Windrush victims as part of the inquiry.
- **Work with Windrush survivors** to design a reconciliation programme.

■ A Windrush Covenant

The mental health impact of the Windrush scandal is unconscionable. Research by University College London found that psychological distress increased among people with Black Caribbean heritage in the UK, relative to the White population, following the 2014 Immigration Act and the Home Office scandal.

Their findings published in *The Lancet Psychiatry*, suggest a causal link between government policies and a subsequent decline in mental health. Black Caribbean study participants then experienced a further increase in psychological distress relative to the White population after the Home Office scandal was uncovered.¹²

Windrush advocates on Action for Race Equality's **Windrush Justice Programme**, for grassroots groups that support people with their applications to the Windrush Schemes, report mental distress and burnout from vicarious trauma.

Without mental health support, restitution cannot be achieved.



The next government should

- **Implement a Windrush Covenant** modelled on the Armed Forces Covenant, a legal duty on public services which provides automatic access to primary care, counselling and support and a wraparound service around their health and wellbeing.
- **Provide funding** for specialist, culturally sensitive mental health services.

Who we worked with

In addition to groups on our **Windrush Justice Programme**, we have consulted with key stakeholders such as lawyers, advocates and charities that work on the issue.



#Justice4
Windrush



Our funders

We would like to thank the funders of the Windrush Justice Programme for their support.



Endnotes

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