

Windrush Compensation Scheme

An Introduction to the Windrush Compensation Scheme, for Advocates

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Welcome and Introductions

- Welcome to an introduction to the Windrush Status Scheme and the Windrush Compensation Scheme, specifically designed for Advocates.
- We want you to support claimants to submit the best possible forms, with the correct information
- We want you to support us in the Compensation Scheme to gather information and manage expectations
- We want you to help spread positivity around the Scheme to encourage eligible applications
- Who are we? Marianne Mason, Sharon Brown, Ahmed Barasab, Madeline Briggs, Vicky Stanley, Jo Bell, Sarah Dennis.

Agenda

- Areas we will cover
 - Windrush Taskforce/Status Scheme overview – importance of demonstrating lawful status
 - Claimant and Advocate Support – We Are Digital and the Help Team
 - Windrush Compensation Scheme Claim Types
 - Losses which can be claimed for
 - Managing expectations through the Windrush Compensation Scheme process
 - Closer look at caseworking and gathering information
 - Feedback

Windrush Status and Compensation Schemes

Jo Bell and Ahmed Barasab

- Windrush Status Scheme
- Windrush Compensation Scheme
- We Are Digital
- The Help Team
- Claim Types
- Claim Categories

Windrush Status Scheme – Obtaining evidence of status

Who can apply?

Any nationality - who arrived in the UK lawfully before the end of 1988 and are settled in the UK

Types of documents

This all depends on when they entered the UK and individual their circumstances

Under Windrush, we can provide:

- a document confirming that you are already a British citizen (status letter)
- British citizenship (naturalisation or registration certificate)
- a document confirming you have the right of abode in the UK (certificate of entitlement of ROA)
- a document confirming you have the right to live permanently in the UK (BRP)
- settlement (indefinite leave to remain) (BRP)

Windrush Status Scheme continued

Categories

- you are a national of a Commonwealth country or group listed in the Windrush Scheme Policy, you either settled in the UK before 1 January 1973 and you have been continuously resident in the UK since your arrival or you have the right of abode
- you are a national of a Commonwealth country or group listed in the Windrush Scheme Policy, you settled in the UK before 1 January 1973 and your settlement status lapsed because you left the UK for more than 2 years and you are now lawfully in the UK and have strong ties with the UK
- you are the child of a national of a Commonwealth country listed in the Windrush Scheme Policy, and you were born in the UK or arrived in the UK before you were 18 years old and you have been continuously resident in the UK since your arrival and your parent was settled before 1 January 1973 or has the Right of Abode (or met these criteria but is now a British Citizen)
- for any nationality - you arrived in the UK lawfully before the end of 1988 and are settled in the UK

Windrush Status Scheme continued

- If you know or identify anyone who is unsure or needs help with their status, please direct them to our Help Team
- They can contact us on freephone 0800 678 1925. Our lines are open Monday to Friday between 9am to 5pm or by email: commonwealthtaskforce@homeoffice.gov.uk
- Alternatively, you can call the Help Team on their behalf if you have their consent to share information

Claimant and Advocate Support – We Are Digital (WAD)

Our compensation customers are able to get support from our external contractors called We Are Digital. We are digital are able to guide the customers on what to include in their applications, confirm whether they are eligible (if the customer is still ensure after speaking to us) as well as guide them to what documents we may ask for depending on the type of application.

Additionally they can also help customer complete probate applications if they have submitted an estate claim and require probate.

We Are Digital are not contracted to help customers with their Windrush status applications, our helpline agents are able to do this over the phone.

Claimant and Advocate Support – The Help Team

Our role on the Help Team is to ensure our customers receive the best possible support through their WCS journey.

From the beginning, we set out the criteria and outline the basic process for customers

- We help them identify the right forms and encourage those eligible to apply
- We operate a call back system where new customers are triaged, and call backs are arranged so that we can spend extra time going the customer's circumstances

Who can apply to the Windrush Compensation Scheme?

Anyone who has suffered losses because they could not show that they had a right to live in the UK, may be able to claim compensation.

'Losses' can be things like not being able to work, finding a place to live or getting health treatment. They can also include immigration actions, like detentions or removal from the UK.

IMPORTANT NOTE: A compensation claim can only be submitted if a status application has been granted (this may be via Windrush or other routes). If status has not yet been confirmed then the compensation application will be put on hold until status is confirmed.

Claim Types

Under the scheme there are 3 types of claimants:

- Primary claimant
- Representative of the estate of deceased claimants; and
- Close family member

IMPORTANT NOTE: HAVE YOU SUFFERED ANY LOSSES DUE TO YOU NOT BEING ABLE TO PROVE YOUR STATUS IN THE UK?

An overview of this is important – you need to ensure the correct application form is completed, and the individual meets the requirements of the claim type.

Primary Claim

Customer can apply if one of the following is true:

- they came to the UK from a Commonwealth country before 1973
- their parents or grandparents came to the UK from a Commonwealth country before 1973
- they came to the UK from any country before 31 December 1988 and are now settled here

They will need to show that they suffered losses because they could not prove their right to stay in the UK.

Close Family Member Claim

A customer must show that:

- they experienced a loss because a close family member could not prove that they had a right to live in the UK.
- the family member must be their **partner, parent, child, brother or sister**. The family member does not need to have made a claim, but they must be or have been eligible.

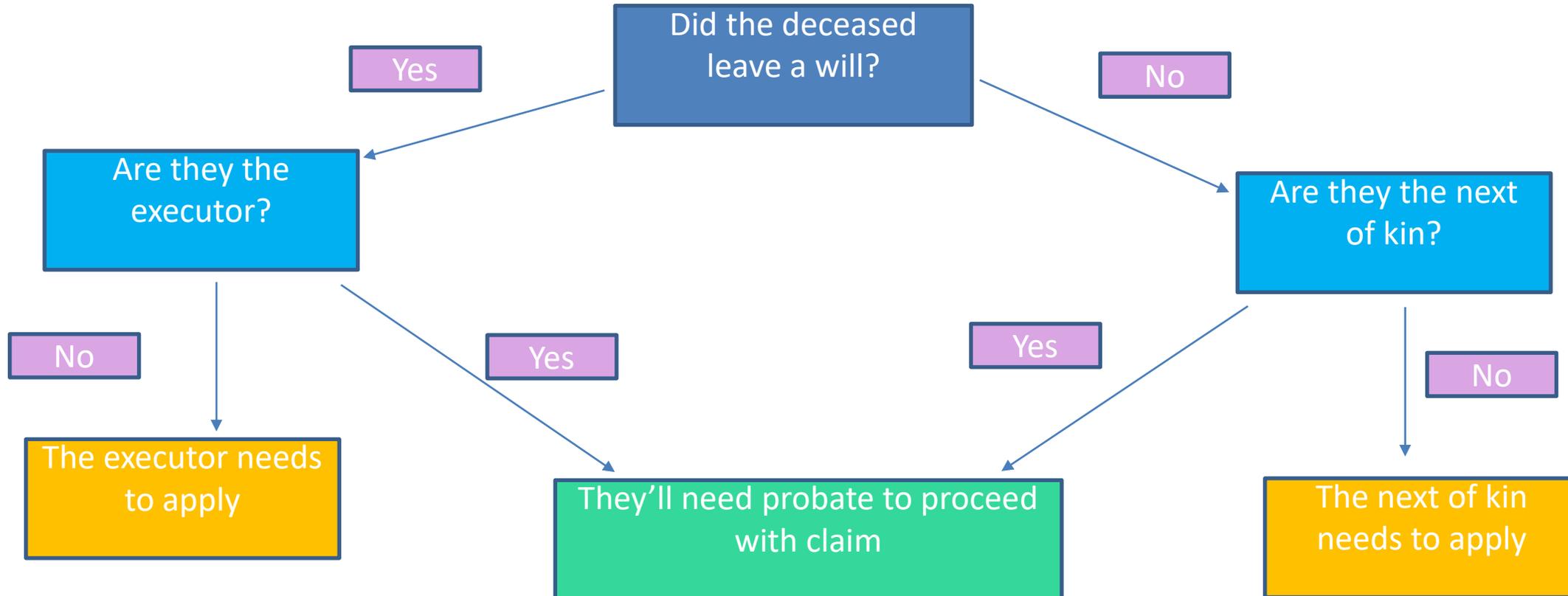
Estates Claim

A customer must show that the person who died:

- would have been eligible for the scheme as a primary claimant
- suffered losses because they were unable to prove that they had a right to live in the UK.

A customer can get support if they do not have the legal right to deal with someone's estate (probate). This includes help applying for probate and financial help. E.g. with legal costs up to £1500.

Estates Claims



N.B The caller can still help if the right person sends in a LOA with the estates claim

Losses which can be claimed for

Immigration Fees and Associated Legal Costs	Banking	Health	Housing	Education
Access to Employment	Child Tax Credit	Working Tax Credit	Child Benefit	Impact on Life
Homelessness	Detention	Deportation	Removal or Return	Discretionary

Quiz Questions

A customer has been in touch and is wanting to know whether they are eligible to apply for the compensation scheme
what is the first question we should be asking them?

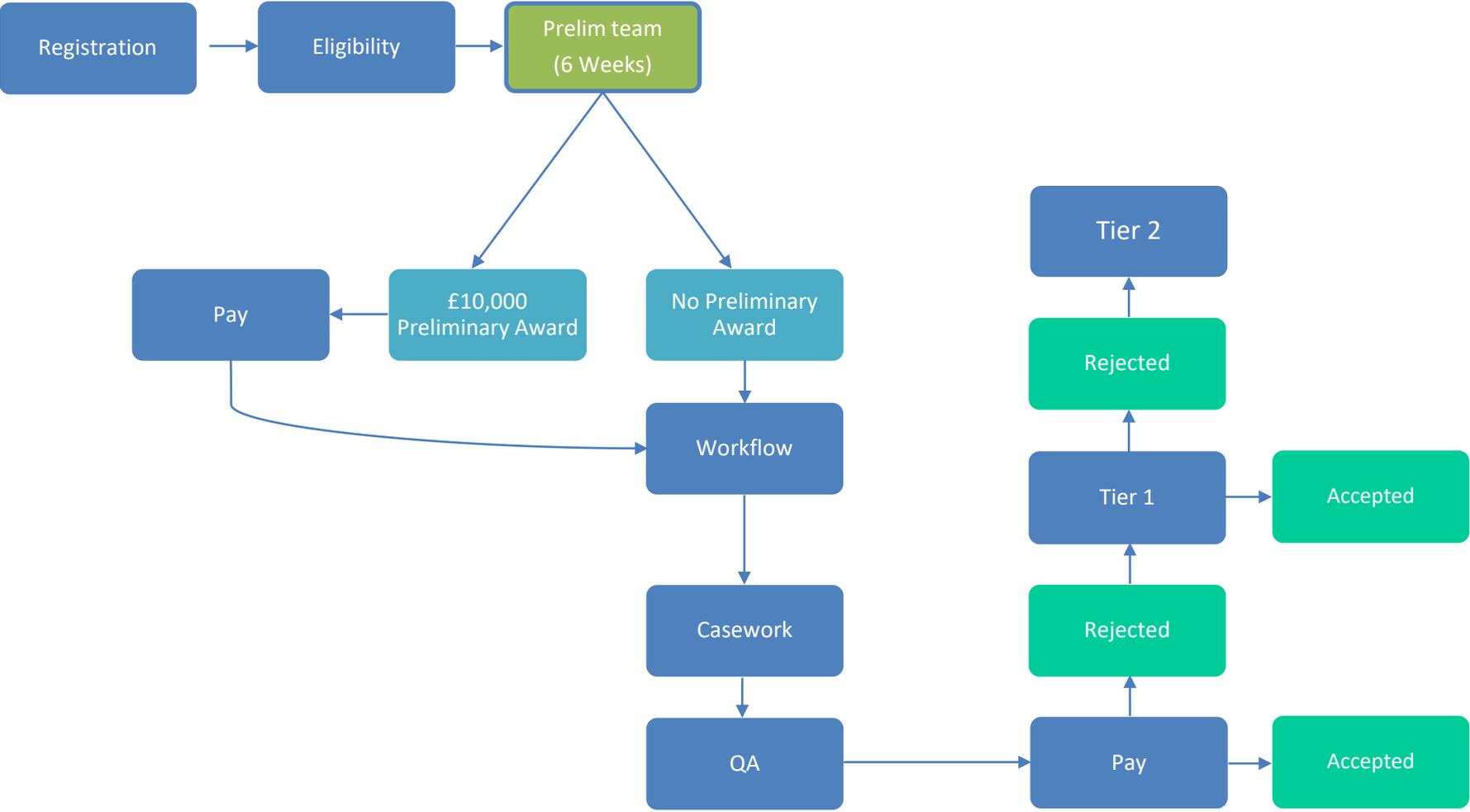
A customer has said their father had suffered losses because of their status but they are deceased, can they put in a claim?

A customer has called and sounds very upset and they have just explained they have lost their job because they couldn't prove their status and are now wanting to apply for compensation, can they put in a claim?

Managing Expectations through the Windrush Compensation Scheme Processes

Madeline Briggs

- Registration and Eligibility
- Eligibility vs Entitlement
- Preliminary Assessment
- Tier 1
- Tier 2



Registration and Eligibility

Before a claim is registered, the Registration team will ensure

- the claim is completed correctly
- the necessary documents are provided such as ID documents
- and the declaration page has been signed and ticked.

You can check this prior to sending the form to us!



The Registration team will instigate other government department checks, sourcing pertinent information to support a positive consideration to ensure a well rounded product enters the case working space. A claimant may be contacted if additional documents are required. For example, they may be asked to complete or provide

- a document called a Leave of Authority (LOA) giving us permission to speak to a representative if they are acting on behalf of them.
- Medical Consent Form, if necessary
- Death Certificate and Letter of Administration, if they are making an estate claim
- Verify their email address

Be aware of this to help manage expectations



Eligibility vs Entitlement – Managing Expectations

- When a claim has been determined as eligible, this means that the claimant has met the eligibility criteria for the Scheme as described earlier.
- This does not mean they are automatically entitled to a compensation award.
- This assessment will be completed by the caseworking teams .
- In order to make an offer of compensation, ***the caseworker needs to be able to determine that the claimant suffered a negative impact as a result of not being able to demonstrate their legal status.***
- ***Eligibility for the Scheme does not mean they will be entitled to an award.***

Scenario	Eligibility	Entitlement
<p data-bbox="224 235 1031 364">Mrs M was born in Jamaica and entered the UK in 1968.</p> <p data-bbox="224 378 980 578">Mrs M registered as a British citizen and has never had any issues because of her status.</p>	<p data-bbox="1108 235 1210 292">Yes</p>	<p data-bbox="1686 235 1770 292">No</p>
<p data-bbox="224 621 1031 749">Mr R was born in Barbados and entered the UK in 1975.</p> <p data-bbox="224 763 1031 1263">Mr R travelled on his mother's passport and has had problems proving his right to work in the UK in 2003. Mr R applied for status under the Windrush Scheme and was granted citizenship.</p>	<p data-bbox="1108 621 1210 678">Yes</p>	<p data-bbox="1686 621 1783 678">Yes</p>

Preliminary Assessment – Managing Expectations

- The Preliminary team complete an **initial assessment to consider if a preliminary award of £10,000** can be made.
- The outcome of this assessment will be sent to the claimant within **6 weeks** of being considered eligible.
- The Preliminary Assessor will look at all the information available and will call the claimant once the claim has been allocated. **They may also request some additional information.**
- **An initial assessment only, if we are unable to offer a preliminary award, it does not mean that a compensation offer won't be made later following the full consideration.**

Jump to...Tier 1 – Managing Expectations

- If a claimant is unhappy with their compensation decision, they can request a Tier 1 review.
- An acknowledgment letter will be sent and the claim will be passed to Tier 1 to await allocation. **Claims are allocated in order of receipt** in the Tier 1 space.
- Tier 1 reviewers are independent of decision makers.
- Once allocated, the **Tier 1 reviewer will contact the claimant and may request additional information**. Additional information can be sent in with a request for review, this will also be considered.
- Once the decision letter has been completed, the claimant will then need to respond to the indicate if they accept or reject the offer.

Tier 2 – Managing Expectations

- If a claimant is unhappy with the outcome of the Tier 1 review, they can ask for their claim to be reviewed by an ***independent reviewer in the Adjudicator's Office***.
- All information held about a claim will be passed to them for them to review.
- Once completed, the Adjudicator's Office will write to the claimant with the outcome of the review.
- If they have made a recommendation for the Home Office to reconsider their decision, the claim will be passed to Tier 1 to be considered in line with the recommendations. This will be concluded by a reviewer who has not been previously involved in the claim.
- Feedback received from the Adjudicator's Office is shared with the Tier 1 and Technical teams to ensure we are always improving.

Gathering Information – Role of the advocate

Vicky Stanley

- Caseworker role
- Balance of Probabilities
- How you can help in the decision making process
- How you can help progress a decision

Caseworker Role – For Awareness

- Role of Caseworker is evidence gathering and assessment - they assess all the available information and where necessary, carry out further investigation and information gathering
- Shared responsibility
- Everyone and every application is different

Balance of Probabilities – For Awareness

‘An event is more likely to have occurred, than not occurred’

Why use the balance of probabilities?

- Interests of fairness
- Not everyone has evidence of (all) incidents
- Allows a holistic consideration

How you can assist in the decision making process

We are interested in;

- Aliases
- Previous applications
- passports
- travel documents, flight manifest or passenger listing
- birth certificates
- school and study records
- employment history
- family history
- evidence of addresses, property ownership or rental agreements
- National Insurance number (DWP checks cannot be done without this)
- marriage or civil partnership certificate
- factual records including court proceedings
- medical or dental records
- bills and letters

How you can assist in the decision making process continued

- Ask questions around events/incidents to build a picture and context
- As an example, if someone is claiming they lost their job because they were unable to demonstrate their lawful status, ask questions such as;
 - Who were you employed by?
 - What dates were you employed?
 - When was the employment terminated?
 - Do you have any documentation stating why your employment was terminated?
 - Do you have any correspondence between you and your employer?
 - Were you ever asked for any documentation to show your status?
 - Did you ask anyone for help? Eg CAB,MP, solicitor
 - Did you ever show any documentation? What did you show, where is this now, what did they say?
 - Do you have any documentation about the salary or wage you were paid in this role?
- **What happened?**
- **Where?**
- **When?**
- **Why?**
- **Who?**

How you can assist in the decision making process continued

Impact on Life example questions;

- When did you first realise there was an issue with your status?
- What caused you to realise there was an issue with your status?
- What did you do once you realised there was an issue with your status?
- Did you seek advice from anybody?
- Did you have any documents at all demonstrating your status?
- What documents did you have?
- Did you have any other issues?

How you can assist in the decision making process continued

- No specific rules
- Everyone is an individual and should be treated as such
- Understand the Heads of Claim
- Evidence
- Work together with the caseworker

The ways you can help progress an application

- One of the best ways you can help to progress an application is to help gather the information needed
- Help manage expectations
- If in doubt, tell us about it or send the information anyway

Scenarios - What questions would you ask to build these applications?

Sarah came to the UK in 1963 from Mauritius and lived here ever since. Sarah first began to experience difficulties demonstrating her status in 2014. In 2015, her bank account was closed and she was forced to withdraw £10,000 in savings. This meant she lost out on interest on her savings.

Doreen had an offer of employment working as a receptionist at a local skip hire company withdrawn because she could not provide documentation to prove her lawful status. Her yearly gross pay would have been £18,456.

Derek had worked for a small company for 24 years before being dismissed. He states his monthly take home pay was £1225.68.

Ken worked part time (20 hours a week, 4 hours a day x 5 days) as a self employed dog walker. He had to stop working on the 31st May 2016, his lawful status was confirmed on 17th December 2018. He started working again on the 2nd January 2019.

Close and Feedback

We would like your feedback!

What did you find useful about the session? Is there anything you would like to know more about? Did anything work well, or not so well?

Over the coming months, we will stay in contact and we would like you to keep feeding information back to us. Is there anything you have identified in your role as advocate that on reflection, we could include in this session?

Useful Links

Apply to the Windrush Scheme for documentation to prove your right to live and work in the UK

[Windrush Scheme: get a document showing your right to be in the UK: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/windrush-scheme-get-a-document-showing-your-right-to-be-in-the-uk)

Information about the Windrush Compensation Scheme

[Apply to the Windrush Compensation Scheme: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/apply-to-the-windrush-compensation-scheme)

Windrush Compensation Scheme Application Form

[Windrush Scheme application form \(UK\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/windrush-scheme-application-form-uk)

Windrush Compensation Scheme Caseworker Guidance

[Windrush Compensation Scheme: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/windrush-compensation-scheme-caseworker-guidance)

Windrush Transparency Data, December 2022

[Windrush Compensation Scheme data: December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/windrush-compensation-scheme-data-december-2022)

Windrush Urgent Exceptional Payment Guidance

[Windrush Scheme: support in urgent and exceptional circumstances - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/windrush-scheme-support-in-urgent-and-exceptional-circumstances)