

Response to the Windrush compensation scheme consultation

The Government carried out a consultation on a proposed scheme, which looks to compensate some of the Windrush generation who were affected by difficulties in demonstrating their lawful status under the immigration system.

Islington Council submitted a formal response to the consultation, a summary of which can be found here, but overall the council does not believe the scheme goes far enough to compensate residents, communities and council services for all the losses incurred. The response takes into consideration the extent to which people's lives have been negatively impacted, from being wrongly arrested and detained; to living in hiding; to losing their home and being prevented from accessing employment and basic services, such as free health care.

Islington Council does not think the proposed eligibility criteria for the compensation scheme adequately covers all residents who may be affected

(1) People who have already successfully applied for leave to remain

The proposed compensation scheme does not extend to those who have already been granted leave to remain. The council believes that a person who has suffered financial and personal losses before proving their status should be able to claim compensation for the hardships experienced. It should also include those who were granted limited leave rather than settled status, which would have had to be regularly renewed at a high cost, on top of restrictions in accessing welfare support, including in-work benefits.

(2) All affected direct-line descendants

Although the compensation scheme covers some children, it does not extend to grandchildren of people of the Windrush generation. It should compensate for any harm caused to all direct-line descendants who may have experienced difficulty in establishing their rights in the UK.

Islington Council does not think that the compensation scheme covers all the losses that affected residents will have experienced

(1) Immigration fees and legal expenses for successful applications

The council does not believe that the scheme should be limited to unsuccessful applications. Applying for permission to stay in the UK and proving entitlement to services has become an extremely expensive process with high application fees and no legal aid available. For example, applying for and sustaining leave under UK immigration rules could cost a single parent with two dependent children at least £18,000 in fees (application and renewals) over a period of 10 years.

It is therefore unreasonable for people to be denied the opportunity to recover expenses that should not have been incurred had the Home Office taken more care to recognise the existing rights of settled residents.

(2) Compensation for local government

The cost of supporting residents excluded from accessing mainstream services and having no recourse to public funds (i.e. access to welfare benefits and housing) falls to local authorities. Local authorities are required by law to provide essential support to safeguard the most vulnerable residents when they are unable to access mainstream welfare provision. The advice, assistance and financial services provided by local authorities to those affected are avoidable costs that would not have been incurred had individual rights been protected.

Islington Council will not support a tariff-approach to grade the severity of losses, good character tests, or caps on compensation

The Government has no legitimate bases on which to measure the severity of one type of impact on an individual, compared to another, and Islington Council does not believe a 'tariff' system – which grades relative losses and compensation amounts – is the right approach. Instead the scheme must focus on the stated loss and impact on the individual and address current hardships faced, as well as compensating them for life opportunities lost. In addition, many people have been forced to survive in the UK, barred from employment and other essential services for considerable periods of time through no fault of their own. If the government is sincere in accepting fault and apologising for harm done, then 'good character' tests and caps on compensation, or indeed varying types of leave being issued because of past indiscretions, should not be in their response.

Islington Council made suggestions about how the scheme should be run

The scheme must focus on improving lives and not make judgements about the impact or what could have been done differently by the claimant. The guiding principles should be:

- Everyone accepted under the scheme is naturalised as a British citizen (if they want to be)
- There is an expedient and low cost (or free) way of obtaining a British passport
- Debts associated with having no immigration status are fully paid
- Loss of income through no employment and / or no access to welfare benefits is recovered
- Support accessing employment and/or benefits is provided
- Independent and regulated advice and guidance is available and funded

An outcome focused approach is required to recover past losses and deliver a simple scheme which is based on the losses of the individual claimant. The council calls for an interim relief fund to address urgent needs now.