



National Audit Office



Investigation into the Windrush Compensation Scheme

Home Office


REPORT

**by the Comptroller
and Auditor General**

SESSION 2021-22

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Investigation into the Windrush Compensation Scheme

Home Office

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

14 May 2021

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What this investigation is about

1 In the spring of 2018, the Home Office (the Department) acknowledged serious shortcomings in its treatment of the Windrush generation, who had suffered harm due to the Department's 'hostile environment' policies. These policies required members of the Windrush generation to demonstrate their lawful immigration status to access public services, housing and jobs. Some struggled to do this even though they were living in the UK legally. The Department acknowledged it had treated the Windrush generation unfairly and announced a set of measures to "right the wrongs" experienced by those affected. One of those measures was the Windrush Compensation Scheme (the scheme). The scheme aimed to compensate members of the Windrush generation and their families for the losses and impacts they have suffered due to not being able to demonstrate their lawful immigration status.

2 The Department launched the scheme in April 2019. Parliament and the media have criticised the complexity of the claim process and the length of time it takes for claimants to receive compensation, with some claimants dying before receiving payment. They have also criticised the amount of documentation claimants must provide to support their claims. Even when claimants have been successful, they have perceived the value of payments as insufficient to compensate for the harm suffered. In December 2020 the Department announced changes to the scheme, including an increase in payments for 'impact on life' and a commitment to make a preliminary payment as soon as impact on life had been established.

3 This investigation covers the Department's establishment and administration of the scheme and the progress it has made in implementing the changes from December 2020. Our investigation sets out the:

- history and development of the compensation scheme;
- Department's engagement activity;
- number of compensation claims and payments; and
- Department's administration of the scheme.

4 The report sets out the facts relating to the Windrush Compensation Scheme. In undertaking our fieldwork, we have focused on the Department's operations and decisions in establishing and running the scheme. A separate inquiry on the Windrush Compensation Scheme by the Home Affairs Select Committee will assess the scheme from a user perspective and we have therefore sought to avoid duplicating its work. We have not examined the Department's separate Windrush Scheme (or Windrush taskforce), which was designed to ensure that members of the Windrush generation receive documentation confirming their lawful status in the UK. Nor have we examined the Department's wider progress in implementing the recommendations of Wendy Williams' independent lessons-learned review.

Summary

Key findings

Design and establishment of the scheme

5 The Home Office's (the Department's) design for the Windrush Compensation Scheme (the scheme) aimed to compensate claimants quickly while protecting public money from abuse. The Department started to design the scheme in April 2018 and told us it found no clear precedent for the scheme. The Department therefore developed four potential scheme options and decided to proceed with a scheme that included tariff payments across a range of compensation categories and with a wide range of eligible claimants, including family members and relatives of deceased individuals. The Department launched the scheme in April 2019. It has developed different sets of objectives and it is not clear which it uses to measure progress (paragraphs 1.3 to 1.8 and Figures 1 to 4).

6 In December 2020, the Department announced policy changes to the scheme following Parliamentary and media criticism and stakeholder feedback. The changes aimed to: address criticism from Parliament and the media, and feedback from stakeholders and caseworkers; and to change payment levels to better reflect the suffering endured by the Windrush generation and improve the pace of payments by getting money to claimants faster. The Department's cross-government working group highlighted to the Department that it risked failing to fulfil its public sector equality duty by choosing not to make interim payments to help 'reduce or minimise the suffering of all members of the Windrush cohort', and proposed introducing preliminary payments of £10,000 to claimants. The Department made this change, increased its 'impact on life' payments, and made changes to awards for loss of access to employment (paragraphs 1.15 and 1.16 and Figure 6).

The Department's engagement with affected communities

7 The Department has spent £773,000 on engagement and marketing activity to promote the Windrush schemes but continues to receive feedback reporting distrust.

The Department has held 140 engagement events with nearly 3,000 attendees, aiming to raise awareness of the Windrush scheme for documentation and the separate compensation scheme. The Department commissioned research in summer 2020, which identified two main barriers that might discourage people from approaching it – awareness and trust. Some respondents to a Department commissioned survey reported they did not trust the Department or believe they would be helped or were eligible. They said they were concerned that people had rarely been compensated and expressed concern the schemes were a way to 'round [people] up'. In response the Department developed and ran a series of media and 'grassroots' campaigns between August 2020 and October 2020, including recruiting community ambassadors. Feedback from the campaigns has been broadly positive. Respondents to post-event surveys said they felt more aware of the schemes following presentations. However, the Department did not start to see an increase in applications until after it announced the changes in December 2020 (paragraphs 2.2 to 2.10 and Figures 7 and 9).

8 The Department launched a £500,000 Windrush Community Fund in December 2020 to help raise awareness of the Windrush schemes.

The Windrush Community Fund is available for funding applications from charities, community or grassroots organisations across the UK for projects to help raise awareness of the Windrush scheme for documentation and the compensation scheme. The Department will pay Voice4Change nearly £145,000 to administer the scheme on its behalf and advise which proposals the Department should fund. The Windrush Community Fund will be open for applications in two phases, the first of which ran between 14 December 2020 and 12 February 2021. The Department provisionally offered approximately £270,000 to 14 organisations. During the second phase from 1 April 2021 to 30 June 2021, the Department intends to allocate the remaining £230,000 (paragraphs 2.11 and 2.12 and Figure 8).

Compensation claims and payments

9 When the Department launched the scheme in April 2019, it estimated it might pay out compensation worth between £120 million and £310 million to 15,000 people. The Department does not know how many people might be eligible for compensation, and so estimated the number based on information from its immigration systems and the 2011 census. It estimated the likely total compensation payments using a range of factors, including national minimum wage levels, legal advice on the costs of fees and Parliamentary and Health Service Ombudsman financial remedy recommendations. Using these and its estimate of the number of claims, it calculated the possible compensation. In October 2019, it reduced its assumption to 11,500 likely applications and subsequently changed its estimated compensation payment to between £60 million and £260 million, although there is no maximum or minimum on what it might pay. The Department's governance board has discussed a substantial degree of uncertainty around the estimate and believes it to be high but has continued to work from these assumptions. At the time of publication, the Department was reviewing its estimates (paragraphs 1.9 to 1.11 and 3.3).

10 The Department has received 19% of the claims it estimated it might receive as part of the scheme. By the end of March 2021, the Department had 2,163 claims on its system, of which 1,732 (80%) were from individuals, 313 (14%) were from family members and 118 (5%) were on behalf of the estate of someone who had passed away (paragraphs 3.2 to 3.4 and Figure 9).

11 To the end of March 2021, the Department had paid £14.3 million to 633 people, although some of these people may receive further payments. It has paid £11.6 million of this (81%) since it announced the policy changes in December 2020. The Department does not report whether these payments are preliminary, final or increased 'impact on life' payments. We estimate it has paid £2.6 million in preliminary payments and £4.24 million as increased 'impact on life' payments to those previously paid, representing nearly 60% of payments since December. Our analysis of the Department's data shows that by 31 March 2021, it had progressed 414 claims (19%) to the payment stage. The Department's internal figures show that it has made final decisions on 824 claims (38%), although the Department calculates this number using a combination of its system data and manual spreadsheets and we were unable to reconcile it. Some of these claims are still subject to a review or have not yet resulted in a payment. The Department has told 117 claimants they are not eligible for the compensation scheme and has made decisions that 210 claimants are not entitled to monetary compensation as they did not suffer losses. Since March 2020, 230 claimants in total have appealed against the Department's decision or offer (paragraphs 3.5, 4.8 and 4.16 and Figures 11 and 14).

Administering the compensation scheme

12 Between April 2019 and March 2021, the Department had a budget of £15.8 million to run the scheme and spent £8.1 million, of which £6.3 million has been spent on staff. The Department has spent much less than its budget running the scheme and has had considerably fewer staff than it expected to need, although claim numbers have also been much lower than expected. It originally stated it needed 125 full-time equivalent caseworkers from the outset, but when the scheme launched it had 6 full-time equivalent caseworkers in post. The Department told us that at March 2021, it required 51 full-time equivalent caseworkers and had 53 in post. However, its records have not provided a clear picture of the number of caseworkers it needs. The Department is reluctant to increase the number of caseworkers significantly, because it recognises that the scheme's complexity means that it takes time for new staff to get up to speed. It is considering increasing caseworker numbers by up to 10 before the end of June 2021 (paragraphs 4.2, 4.3 and 4.5 and Figure 12).

13 It takes, on average, 154 staff hours to process a case through to payment approval, considerably longer than the Department estimated. When the scheme began the Department estimated that it would take, on average, 30 staff hours to work through a case. However, it found that cases were more complex than forecast and took longer to process. We have analysed data for new applications since March 2020 when the scheme moved to a new IT system (1,033 applications, 48% of total applications); 102 of the 1,033 cases (10%) reached payment approval stage. It took these cases an average of 177 days to reach payment approval, with half of the cases taking between 109 and 250 days. The analysis shows that, on average, applications go through 15 steps before payment to claimants is approved. The Department intends to speed up its claims processing in the next few months (paragraphs 4.4, 4.6, 4.8 to 4.10, 4.12 and 4.13 and Figures 13 to 15).

14 The Department's quality assurance processes are not identifying all errors. Our analysis shows that, of the cases that were subject to a quality assurance check, half needed to return to a caseworker for further work, indicating cases often contained errors. However, some claims have proceeded to payment without errors being identified. As of March 2021, the Department is aware of six overpayments, totalling £38,292 in value. We undertook our own review of 10 cases and identified overpayments of £447 relating to two items worth £330,566 in total (0.14% error). Our case file review also identified further inconsistencies in how caseworkers have calculated loss of income from employment (paragraphs 4.15 to 4.18).

15 The Department has reduced the standard of proof required for some categories of claim to ensure claimants receive the maximum compensation owed to them. In October 2020, the Department lowered the burden of proof required for some claim categories from ‘satisfied as to be sure’ and ‘beyond reasonable doubt’ to ‘on the balance of probabilities’. It told us that caseworkers understand what this means because they had already been working to the ‘on the balance of probabilities’ threshold for most categories of claim but has not set out in writing to us or to caseworkers what this change means in practice. The Department is now undertaking a review of how evidential standards are applied in decision-making, claim forms, guidance and training (paragraphs 1.8, 4.10 and 4.11).

Concluding remarks

16 The Department recognises the Windrush Compensation Scheme is an important part of its response in righting the wrongs suffered by the Windrush generation. Its design aimed to compensate claimants quickly while protecting public money from abuse. However, it started accepting applications before it was ready. Until it started enacting the changes it made in December 2020, it was not meeting its objective of compensating claimants quickly. Since then, it has made some progress. By the end of March 2021, the Department had paid £14.3 million in compensation, of which £11.6 million has been paid since December 2020. Nearly 60% of the payments since December relate to paying increased ‘impact on life’ awards to those previously paid and making preliminary payments, rather than finalising more claims. The Department needs to sustain its efforts to improve its caseworking operations and management systems to ensure it fairly compensates members of the Windrush generation in acknowledgement of the suffering it has caused them.

Part One

The history and development of the Windrush Compensation Scheme

1.1 In the spring of 2018, the Home Office (the Department) acknowledged serious shortcomings in its treatment of the Windrush generation, who had suffered harm due to the Department's 'hostile environment' policies. These policies required members of the Windrush generation to demonstrate their lawful immigration status to access key public services, housing and jobs. Some struggled to do this even though they were living in the UK legally. The Department acknowledged it had treated the Windrush generation unfairly and announced a set of measures to "right the wrongs" experienced by those affected. One of those measures was the Windrush Compensation Scheme (the scheme). The scheme aimed to financially compensate members of the Windrush generation and their families for the losses and impacts they have suffered due to not being able to demonstrate their lawful immigration status.

1.2 In this part we set out how the Department designed the scheme, the governance and accountability arrangements, and policy changes introduced in December 2020.

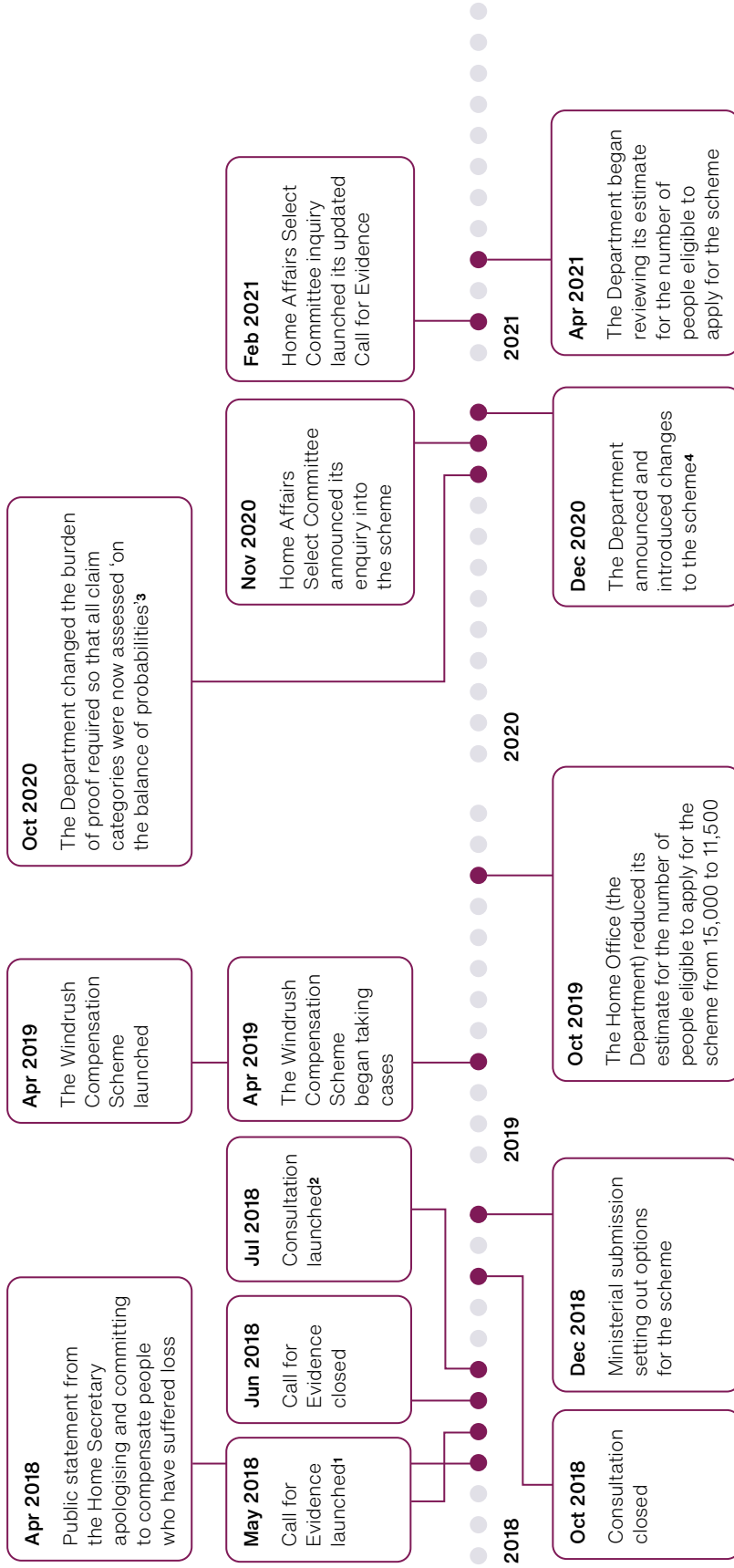
Scheme design

Consultation before scheme design

1.3 The Department announced it would create the scheme in April 2018 (**Figure 1** overleaf). The Department aimed to provide a fair, comprehensive and accessible compensation scheme. The Department told us that when it began designing the scheme, it found no clear precedent. The Home Secretary appointed an independent adviser to oversee the design of the compensation scheme and provide independent scrutiny of the scheme's operation. The Department drew on sources from across government including the Local Government Ombudsman, Parliamentary and Health Service Ombudsman, Financial Ombudsman services and the Department for Education's internal system for complaints.

Figure 1
Windrush Compensation Scheme timeline

In April 2018, the Home Secretary announced plans to financially compensate members of the Windrush generation and their families for the losses and impacts they have suffered, which was followed by the formal launch of the Windrush Compensation Scheme (the scheme) in April 2019



Notes

- 1 The purpose of the Department's Call for Evidence was to listen to those affected before engaging on the details of the scheme.
- 2 The purpose of the Department's consultation was to hear from those who have been affected by this situation, and their families, on the design of the scheme.
- 3 The change introduced in October 2020 was to lower the burden of proof for some claim categories under the scheme from 'satisfied as to be sure' and 'beyond reasonable doubt' to 'on the balance of probabilities'. This was to align those categories with the rest of the scheme.
- 4 Changes introduced in December 2020 included an increase in payments within the 'impact on life' claim category and a commitment to make a preliminary payment as soon as impact on life had been established.

Source: National Audit Office analysis of Home Office board papers and planning documents

1.4 In May 2018 the Department launched a four-week Call for Evidence as a first step to designing the scheme, seeking to better understand what happened and individuals' personal stories. The Department received 650 responses, which it used to develop a government consultation. The consultation ran from July 2018 for 17 weeks. It received 1,435 responses, of which 76% of respondents were referring to their own experience, 17% were responding on behalf of an individual and the rest were responding on behalf of organisations. The consultation contained questions about the Department's proposed compensation scheme and comprised 114 high-level questions and sub-questions. The consultation received criticism from respondents for being too long and excessively complex.

1.5 The Department used the consultation responses to develop four potential scheme options (**Figure 2** overleaf). The Department considered whether the scheme should aim to put people back in the position that they would have been in or whether it would offer appropriate compensation for the whole impact suffered. The Department believed the former was fairer, but would be operationally complex, difficult to assess accurately and costly to administer. It chose a design which included banded tariff payments across a range of compensation categories and with a wide range of eligible claimants including family members and relatives of deceased individuals.

Objectives

1.6 The Department has provided the National Audit Office with two differing sets of objectives for the compensation scheme and staff have acknowledged that objectives have changed over the duration of the scheme. **Figure 3** on page 15 outlines the objectives it uses and its Vision, Mission and Objectives, which it established in autumn 2018. The Department does not report against either of these sets of objectives in its monthly performance reporting pack.

Categories of claims

1.7 The chosen scheme design allowed claimants to claim compensation in any combination of 13 categories, including repayment of immigration fees, payments for loss of access to public services, impact on life and loss of employment (**Figure 4** on pages 16 and 17). The 13 categories mirrored those the Department proposed in its consultation but did not cover all issues respondents raised in the consultation. For example, 96% of respondents thought the Department should consider the value of loss from employment and pensions foregone. The Department only compensates for lost earnings through employment and not for lost pensions. The scheme continues to receive criticism for excluding pension considerations, although the Department has a discretionary award category that can cover financial loss not otherwise identified in the scheme.¹

¹ The Department is undertaking work with other government departments to correct claimants' national insurance records in order to ensure state pensions are not adversely affected.

Figure 2

The Home Office's considerations of four compensation options

The Home Office (the Department) considered four potential scheme options for the Windrush Compensation Scheme. The Department's chosen approach most closely aligned to Option B(ii) below

Option	Department's description	Department's rationale and evaluation (as described in its internal documents)	Department's estimated cost
Option A	<i>A scheme open to the pre-1973 cohort with a high evidential threshold. Volumes would be low with potentially high awards per case.</i>	<i>This cohort would be most likely to successfully bring a legal claim. The awards would be high because they would be cases with greater impacts on individuals. Overall, this presented the lowest range of costs but would face criticism and potential challenge that it does not represent 'fair' redress in line with ministers' commitments and carries a high risk of a successful legal challenge.</i>	Not quantified but estimated to be the lowest.
Option B(i)	<i>Expands the eligibility of Option A to a broader group, but with modest tariff payments, which would be standard and reimburse fees for unsuccessful applications.</i>	<i>This would provide some cover for the greatest legal risk and provide a broader range of people with some compensation. This would meet many consultees' desire for recognition that something went wrong, but others would be disappointed by the modest scope of payments, even where the impact may have been substantial. Legal firms may seek the alternative route of litigation.</i>	£70 million – £100 million
Option B(ii)	<i>As with Option B(i) but more generous banded tariffs and expanded to other categories of loss such as access to housing and other services.</i>	<i>These tariffs would be more generous than B(i) and could be based on established precedents. Rather than a flat payment, they could be banded based on the impact on the individual.</i>	£120 million – £180 million
Option C	<i>Design the scheme to assess the impact on each claimant ie attempt to put people back in the position they otherwise would have been in.</i>	<i>The approach would be the same as in Option A, but also applied to everybody who had difficulty demonstrating their immigration status. This would have very high costs and would significantly increase the costs of running the scheme. In our view this approach may well 'overcompensate' many claimants, compared with what they would get through the courts and could be difficult therefore to justify on value-for-money grounds.</i>	Over £200 million

Note

1 The four options were developed by the Department in 2018-19 when designing the scheme and the text quoted here reflects the Department's own assessment of each option.

Source: Home Office documents regarding the options considered for the scheme

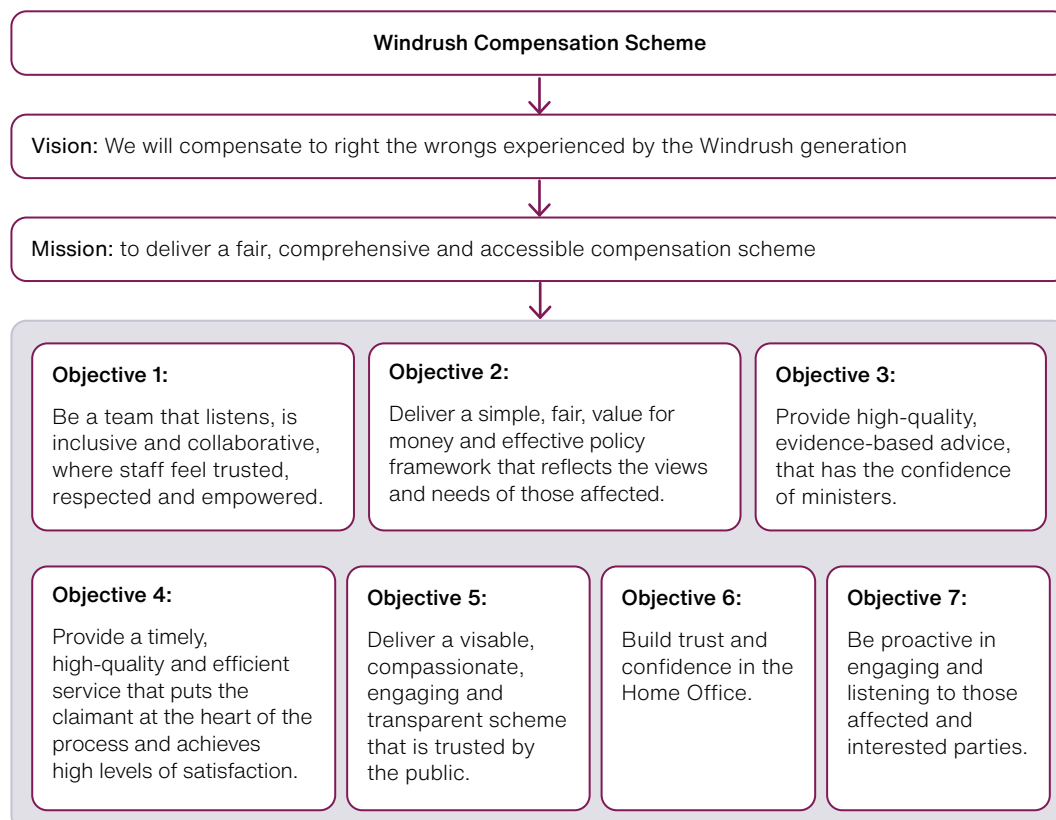
Figure 3

The Home Office's competing objectives for the Windrush Compensation Scheme

The Home Office (the Department) established the Vision, Mission and Objectives for the scheme in autumn 2018 but has provided a different set of objectives also

Objective set 1

- We will apologise to those who faced difficulty evidencing their immigration status and compensate those who suffered loss as a result.
- Compensation aims to provide financial redress for both financial and non-financial losses, via refunds, actual payments, or tariff payment.
- The compensation process will be accessible, easy to use, transparent, with regular communications and support to claimants.
- The scheme will deliver value for the taxpayer, will minimise the likelihood of abuse both in terms of ineligible claimants and fraudulent claims, and minimise the likelihood of legal claims for compensation outside the scheme.

Vision, Mission and Objectives**Note**

1 The Department's documents do not include the dates describing when the objectives came into use.

Source: National Audit Office analysis of Home Office documents about the Windrush Compensation Scheme objectives

Figure 4

Categories of compensation claim

Categories of financial compensation available to claimants under the Home Office's (the Department's) Windrush Compensation Scheme

Category	Award
Immigration and legal fees	Full cost of any Home Office fees for unsuccessful immigration applications. Legal costs: the amount paid or £500, whichever is the lesser.
Detention, ¹ deportation or removal ²	<30 mins: £0.00 0.5–3.5 hours: £500/hour 3.5–9.5 hours: £300/hour 9.5–24 hours: £100/hour Each subsequent 24-hour period (up to 30 days): £500 Each subsequent 24-hour period (up to 60 days): £300 Each subsequent 24-hour period (no limit): £100 (Payments are cumulative. Part-hours and part-days rounded up.) Deportation: £10,000 Removal: £1,000–£7,500 depending on detention/reporting requirements.
Access to employment ³	Actual earnings (annual salary minus tax and National Insurance contributions) over the period of loss. General award: £1,147 per month over the period of loss.
Access to benefits and tax credits: Access to Child Benefit, Child Tax Credit or Working Tax Credit ⁴	Child Benefit: £1,264 Child Tax Credits: £2,500 Working Tax Credit: £1,100
Access to benefits administered by other government departments (for example Department for Work & Pensions (DWP))	The Department will not make any payment to claimants in relation to DWP administered benefits.
Access to services: housing	£1,000
Access to services: healthcare	£500 for denial of access to NHS care. Reimbursement of private medical fees. ⁵
Access to services: education	£500 Reimbursement of international student fees. ⁶
Access to services: banking Services	£200 and any direct financial losses.
Access to services: driving licence ⁷	Claimants for were refused access to a driver's license must apply for compensation through the Driver and Vehicle Licensing Agency (DVLA).
Homelessness	£250 per month (up to a maximum of £25,000).

Figure 4 *continued*
Categories of compensation claim

Category	Award
Impact on life ⁸	<p>From £10,000 (Level 1: inconvenience, annoyance, frustration and worry).</p> <p>to £100,000* (Level 5: profound impacts on a claimant's life which are likely to be irreversible).</p> <p>*Can be exceeded if circumstances are "so compelling or severe it would be appropriate to do so".</p>
Discretionary award	<p>Any amount of loss/impact that:</p> <ul style="list-style-type: none"> ● are financial in nature; ● arose solely as a direct consequence of the inability to demonstrate lawful status; and ● are not covered by other claim types.

Notes

- 1 Detention refers to cases where a claimant was held in a removal centre, short-term holding facility or prison or detained at the end of a prison sentence in the United Kingdom (UK) – for any length of time.
- 2 Deportation refers to cases where a claimant was deported to another country and believes that, had they been able to demonstrate lawful status in the UK at the time of deportation, they would have been exempt from deportation. Removal refers to where a claimant was removed from the UK by the Department. This includes those who have since returned to the UK and those who have remained in another country because they have been unable, or do not wish, to return.
- 3 The Department pays an 'actual award' where a claimant can demonstrate their exact salary. It pays a general award where exactly salary is unknown or cannot be evidenced.
- 4 DWP and HM Revenue & Customs (HMRC) will process claims in line with their own procedures to reinstate benefits and decide whether to make reimbursement for lost benefits. In the case of benefits payable by a local authority, DWP will pass those claims on to the relevant local authority to determine. In the case of HMRC benefits (Child Benefit, Child Tax Credit and Working Tax Credit), the Windrush Compensation Scheme will make a payment in lieu of compensation for these benefits to eligible claimants.
- 5 For reimbursing private medical fees the Department will pay the lower amount out of the cost the NHS would have charged a person to receive the equivalent treatment if ineligible for free treatment, and the actual amount of private medical fees incurred.
- 6 For international student fees, the Department pays the difference between the international student fee rate and the home student fee rate for the relevant period.
- 7 DVLA will process claims relating to loss or refusal of driving licences in line with their existing procedures, following a referral and authorisation from the Department. The DVLA will then invoice the Department for any payments made. Any wider loss that the claimant has experienced as a result of losing their driving license, for example loss of employment, is compensated for by the Department.
- 8 The 'impact on life' awards presented are for award levels from 15 December 2020 onwards, when the Department introduced changes to the scheme.
- 9 The Department has a 13th category for non-financial losses, in which claimants receive an apology alongside any financial compensation awarded.

Source: National Audit Office analysis of Home Office documents

1.8 The Department sought to compensate claimants quickly while protecting public money from abuse, so it set several conditions that needed to be met for claimants to receive payment. For example, the Department developed nine pages of guidance for caseworkers to help them assess the compensation due for loss of employment. It would issue full repayment for loss of access to employment only if someone could:

- provide documentary evidence of their salary before losing work;
- show their dismissal or withdrawal of a job offer was because of their inability to prove their lawful status; and
- initially, show that they immediately tried to resolve their immigration status.

If a claimant could not demonstrate actual salary, the reasons behind their dismissal or mitigation, the Department made a maximum payment of 12 months at the national living wage.²

Eligibility and likely compensation payment

1.9 The Department launched the scheme in April 2019, but it did not know how many people might be eligible. It estimated that 15,000 eligible people might apply over the two-year period in which the Department had planned to keep the scheme open.³ It used the 2011 census, its own data and assumptions, including:

- 177,000 Commonwealth nationals arrived pre-1988 and did not have a passport;
- 18% of those were refused Indefinite Leave to Remain between 2002–2018; and
- 50% of those refused would have suffered harm.

1.10 As of 5 September 2019, the Department had received around 790 applications. Therefore, it revised the applications volumes assumption to 11,500 in October 2019, making use of information from the Windrush Taskforce.⁴ The Department's assumptions for this revised figure were:

- 6,700 non-EU-born people had already regularised their status through the Windrush Taskforce, and 75% of those would apply for the compensation scheme;

² These conditions referred to the scheme at the outset. The Department amended the conditions for claims under the employment category in December 2020, including removing the 12-month limit on pay.

³ The Department estimated that it might pay out compensation worth between £120 million and £310 million to these 15,000 eligible people.

⁴ The Windrush Taskforce, or Windrush Scheme, is the scheme available to help provide individuals with formal documentation of their lawful right to live in the UK.

- 2,700 expected future claimants to the Windrush Taskforce, of which 75% would apply for the compensation scheme; and
- 62% of compensation scheme claimants having come through the Taskforce initially, with a further 38% applying directly for compensation.

1.11 Based on the scheme, the Department estimated that the 11,500 people eligible could receive between £60 million and £260 million, although there is no maximum or minimum limit on what it might pay.⁵ This equated to expected average payments of between £5,600 and £22,200. The Department acknowledged a high degree of uncertainty around its estimates but retained these estimates until April 2021. At the time of publication, the Department was reviewing its estimates.⁶

Governance and accountability

1.12 There are two tiers of governance in place to steer the Department's response to Windrush and the Windrush Compensation Scheme (**Figure 5** overleaf).

The Windrush Lessons Learned Programme Steering Group has a wider remit to examine the Department's overall response to Wendy Williams review of lessons learned.⁷ The Steering Group makes decisions for the lessons learned programme and is responsible for ensuring the intent of the report is fully met.

1.13 In June 2020 the Department created a working group which brings together community organisations with government representatives to support the delivery of practical solutions to address challenges affecting the Windrush generation and their families. Membership includes key stakeholders representing the affected communities and representation at a senior level from the Department, Cabinet Office and Prime Minister's Office.⁸

1.14 The Windrush Oversight Board provides oversight and monitoring of the development and performance of the Windrush Compensation Scheme. This board reports to the Steering Group and consists of departmental members meeting every six weeks.⁹ Independent members join the board at alternate meetings to provide scrutiny and review any contested decisions or complaints.¹⁰

5 These estimates pre-date the December 2020 changes. Input variables included: national minimum wage levels; legal advice; Parliamentary ombudsman financial remedy recommendations; data collected by the Windrush Taskforce and Family Resources Survey; and also input scheme rules and payment amounts, used to reflect the amount to be paid to each successful claim. These figures agree with the Departmental provision included in the financial accounts.

6 The National Audit Office will review any new estimates as part of its audit of the Department's financial statements.

7 Independent review by Wendy Williams, *Windrush Lessons Learned Review*, March 2020.

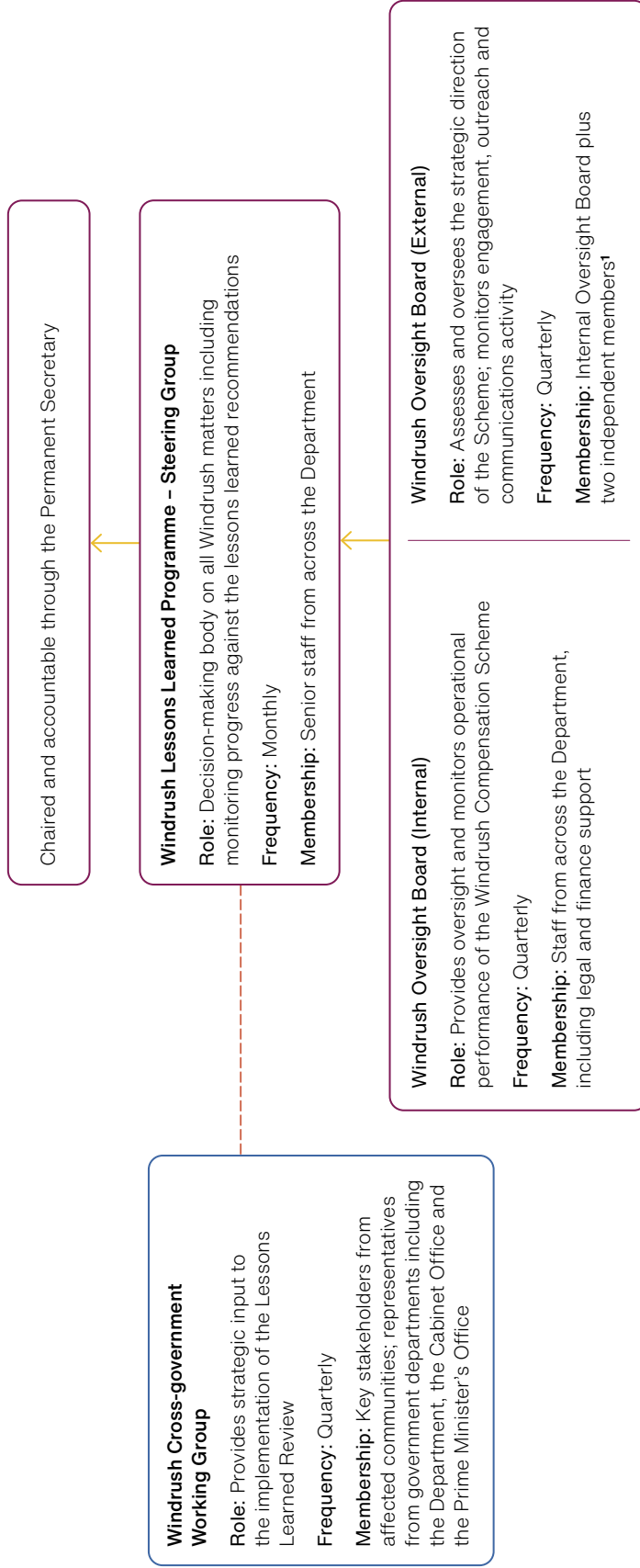
8 See www.gov.uk/government/collections/windrush-cross-government-working-group, accessed 17 May 2021.

9 Prior to November 2020, the Windrush Oversight Board reported into the Borders, Immigration and Citizenship System Policy Board and the UK Visas and Immigration and HM Passport Office Joint Executive Board.

10 The two independent members are the Windrush Independent Person and the Independent Adjudicator.

Figure 5 The Home Office governance arrangements for its Windrush Compensation Scheme

The Home Office (the Department) has set up three boards to govern its wider response to Windrush and the compensation scheme for affected individuals and families



- Managed and staffed within the Department
- Includes stakeholders and other government departments
- Shows lines of accountability and reporting
- Shows strategic input, advice and insight

Notes

- 1 The independent members of the external Oversight Board provide challenge, scrutiny and advice on the scheme and review contested decisions or complaints. The two independent members are the Windrush Independent Person and the Independent Adjudicator.
- 2 The chart shows the situation as of November 2020 when the Oversight Boards started reporting directly to the Steering Group.

Source: National Audit Office analysis of Home Office governance documents

Changes to the scheme design

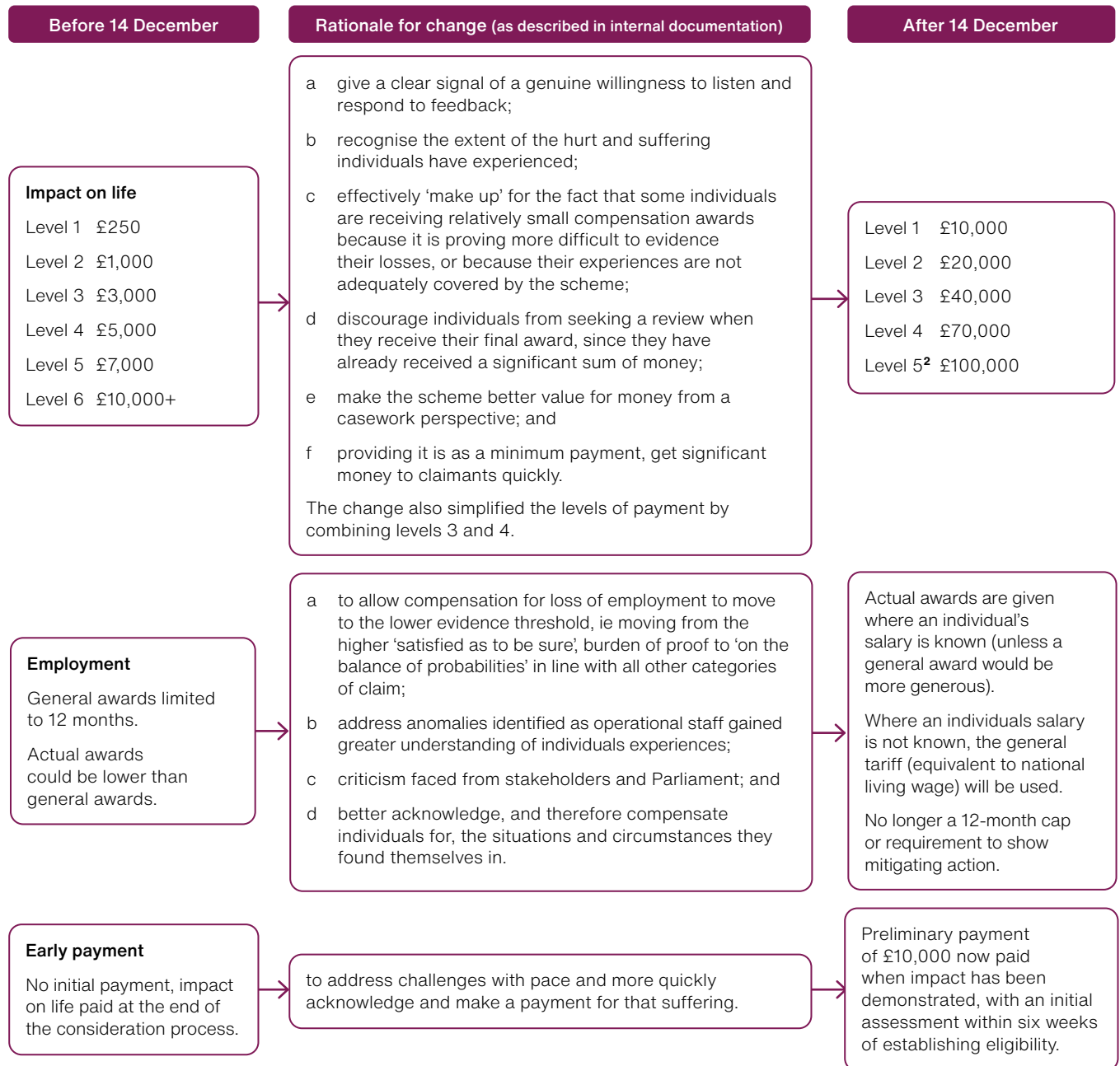
1.15 In December 2020, the Department announced major policy changes to the scheme (**Figure 6** overleaf). These included:

- **increases to its minimum 'impact on life' payment**, from £250 to £10,000, and increases to all possible payments within this category, with the maximum level increasing from £10,000 to £100,000;
- **introducing a preliminary payment** of £10,000 as soon as a claimant has demonstrated they have suffered harm as a result of difficulties in demonstrating their status, with a first assessment taking place within six weeks of establishing eligibility; and
- **changes to awards for loss of access to employment**, including removing the limits on the length of time for which an individual could claim a 'general award' and removing a disparity whereby an individual could receive more for a 'general award' than an 'actual award' based on real earnings.

1.16 In its internal briefing the Department cited many reasons for the changes. The changes aimed to: address criticism from Parliament and the media, and feedback from stakeholders and caseworkers; change payment levels to better reflect the suffering endured by the Windrush generation; and improve the pace of payments by getting money to claimants more quickly. The cross-government working group also highlighted to the Department that it risked failing to fulfil its public sector equality duty by choosing not to make interim payments to help 'reduce or minimise the suffering of all members of the Windrush cohort' and worked with the Department to develop changes, including the preliminary payment.

Figure 6
Changes to the Windrush Compensation Scheme announced in December 2020

In December 2020, the Home Office (the Department) announced changes to the payments available for the impact on life and employment categories and introduced a preliminary payment



Notes

- 1 In December 2020, the Department announced policy changes to the scheme, citing Parliamentary and media criticism and stakeholder feedback as its reason.
- 2 The Department has the discretion to make higher awards where it feels is appropriate. At 31 March 2021, the Department had made no higher payments.

Part Two

Engagement and outreach activity: building relationships and raising awareness

2.1 In this part we set out the Home Office's (the Department's) engagement with affected communities to raise awareness of the Windrush scheme for documentation and the Windrush Compensation Scheme.

2.2 The Department has undertaken various activities to engage with Windrush communities on both the Windrush scheme and the compensation scheme (**Figure 7** overleaf). Up to the end of March 2021 it had spent £773,000 on engagement, outreach and communication activities. In January 2019, three months before the start of the scheme, the Department stated that its objectives for its engagement activity were to:

- increase awareness of the compensation scheme, to evidence the Home Secretary's commitment to make amends for Windrush;
- use the opportunity to continue to increase awareness of the Windrush scheme, to encourage further people to regularise their status; and
- drive eligible people to apply for the compensation scheme.

2.3 The Department began its engagement with a series of events before and at the scheme's launch. These included more than 80 one-to-one surgeries from April 2018 and 33 physical engagement events starting in April 2019. The Department moved to digital events from May 2020 due to the COVID-19 outbreak. The Department gathers feedback on the quality of its events (**Figure 7**), but does not collect information on how people heard about the scheme when they apply. However, feedback at the events fed into the changes the Department introduced in December 2020.

Figure 7

The Home Office's engagement and outreach activity for the Windrush scheme and Windrush Compensation Scheme

The Home Office (the Department) has spent £773,000 on engagement and outreach activity for the Windrush Compensation Scheme

Activity	Dates used	Cost	Description and evaluation
One-to-one outreach surgeries	April 2018	– ¹	80 one-to-one surgeries. No evaluation available.
Face-to-face engagement events	April 2019 to February 2020 ²	£13,500	140 engagement events with nearly 3,000 attendees.
Digital engagement events	May 2020 to present	– ¹	Feedback from attendees is limited, but of those that responded, 80% said the events were very or somewhat useful.
Grassroots campaign	August 2020 to January 2021	£209,100	
Specialist community media partner campaign	August 2020 to November 2020	£93,300	Approximately 1,500 media coverage estimated to reach 3.1 million people. ³ 86% of respondents to a survey said they would apply for schemes if they felt they were affected. Of those that said they would not apply, they gave reasons including lack of trust in the Department, people rarely being compensated, belief they would not qualify, or concerns that information is biased.
Community ambassadors	September 2020 to January 2021	£82,800	Of sampled respondents, 72% felt more informed having engaged with an ambassador; and 40% were more likely to contact the Windrush schemes, but many communities still fear and mistrust the Department, which ultimately affected outreach activity.
In-kind partnerships	September 2020 to November 2020	£11,200	Survey of partners showed participants felt the information was relevant to the communities they served, but none of the partners received queries after sharing campaign materials and information with their networks.
Account management	August 2020 to January 2021	£21,800	Not applicable.

Figure 7 continued

The Home Office's engagement and outreach activity for the Windrush scheme and Windrush compensation scheme

Activity	Dates used	Cost	Description and evaluation
Marketing	August 2020 to October 2020	£495,500	
Paid-for media campaign, including radio, press, digital and search advertising	August 2020 to October 2020	£318,000	Estimated reach of 12 million people, including 25% of priority communities. A survey showed a 14 percentage points increase (from 67% to 81%) in awareness of government support among priority audiences following the campaign.
Strategy and material development	August 2020 to October 2020	£177,500	Not applicable.
Evaluation and testing	Ongoing	£54,800	

Notes

- 1 The Department advised the National Audit Office it did not have any costs incurred from its outreach surgeries and digital events.
- 2 The Department stopped holding face-to-face events at the start of the COVID-19 pandemic. It moved to digital engagement events in May 2020.
- 3 The Department uses the term 'coverage' to mean online and print advertorials, radio and TV interviews, radio recording spots, TV advert spots, engagement events and social posts.
- 4 Totals may not sum due to rounding.

Source: National Audit Office analysis of Home Office financial data

Advertising and marketing campaigns

2.4 In summer 2020 the Department commissioned research into the barriers that might discourage people from approaching it. This research identified the main barriers to scheme applications as:

- awareness, including continued lack of awareness of available help, low awareness of relevance and eligibility; and
- trust, including a fear that engagement with the Department may lead to Immigration Enforcement action and a perception that the benefits of applying do not outweigh effort and likelihood of success.

2.5 The Department subsequently launched an advertising campaign to help raise awareness of the Windrush schemes. This involved a national media campaign and more localised, grassroots activities. The national media campaign included advertising in newspapers, radio, websites and paid search advertising. The Department has estimated that it reached 12 million people through this campaign and a survey showed that pre- and post-campaign awareness of the scheme in affected communities increased from 67% to 81%. It estimated that approximately 17,000 new users visited its campaign pages in the first few weeks of the media campaign. However, the Department did not start to see a substantial increase in claim numbers until it announced the changes to the scheme in December 2020.

Grassroots activity

2.6 In August 2020 the Department launched a campaign to increase the number of people applying for support from the Windrush schemes. Its grassroots approach includes: specialist community media partnerships; 'in-kind partnerships' with organisations such as housing associations; and the recruitment of 40 'community ambassadors' from around the country (primarily in and around London), to help increase awareness of the compensation scheme and encourage eligible people to apply.

2.7 The Department estimates its specialist community media campaign, which used a combination of online and print adverts, radio and TV interviews and adverts and social media posts, reached more than three million people. The Department asked its media partners to carry out a survey following the campaign's running time. The survey received 164 responses and showed that two-thirds of respondents were aware of the measures the Department had put in place to support affected communities. However, more than half the respondents thought the schemes are only relevant to people from Caribbean countries, rather than members of all Commonwealth countries; and 12% of respondents believed that the schemes were set up to send people who are in the UK illegally back to their country of origin.

2.8 The community ambassadors took part in engagement events attended by more than 1,000 people. They posted information on social media and held interviews with print and online media and TV and radio broadcasters. Some also engaged with local authorities to help disseminate campaign materials. A survey of the community members who had engaged with community ambassadors showed 72% felt more informed about the schemes having engaged with community ambassadors; 40% were more likely to contact the Windrush help team to find out more, and/or apply for the schemes, although there remained a belief the scheme was not relevant to them.

2.9 The Department sought feedback from organisations involved in the media campaign and the ambassadors. Both groups said they would have welcomed warning about decisions in other parts of the Department that impact their roles. For example, in a survey of ambassadors, 90% of respondents said news of deportation flights raised difficult questions and concerns around trust in the schemes, resulting in some ambassadors considering leaving the programme. The Department organised an emergency meeting with them, which was well-received, according to the Department's reporting. Still, they wanted reassurance from the Department and to know that their concerns had been heard. Employees at some media outlets told the Department they felt they had compromised their integrity by writing positively about a scheme that was being heavily criticised by other credible media titles.

2.10 The Department is aware that it still needs to build trust with the Windrush communities. Respondents who reported they would not apply for the scheme said this was because they: did not trust the Department or felt they would not be helped; were confused over eligibility; and had concerns that people were rarely compensated and that the schemes were a way to ‘round [people] up’.

The Windrush Community Fund

2.11 The Department launched the Windrush Community Fund in December 2020. It is available for funding applications from charities and charitable companies, community or grassroots organisations across the UK for projects to help raise awareness of the Windrush scheme for documentation and the compensation scheme. The Department has made £500,000 available and will give funding in two phases. The first phase of applications ran from 14 December 2020 to 12 February 2021, from which the Department provisionally offered approximately £270,000 to 14 organisations. The second round of applications for funding opened on 1 April and will run until 30 June 2021, through which the Department intends to allocate the remaining £230,000 (**Figure 8**).

2.12 The Department has contracted out the administration of the Windrush Community Fund to the organisation Voice4Change (V4CE), a national advocate for the Black and Minority Ethnic voluntary and community sector. The Department will pay V4CE nearly £145,000 between the start of the contract in December 2020 and September 2022.¹¹ The role of V4CE is to promote the Windrush Community Fund, assess applications and make recommendations for funding to a sub-group of the Windrush Cross-government Working Group, who make initial decisions on funding for the Department to approve. V4CE will also monitor and evaluate all successful projects.

Figure 8

Outcome of the first round of Windrush Community Fund applications

The Home Office (the Department) ran the first phase of Windrush community funding between December 2020 and the end of January 2021. Seventy-nine organisations applied for funding. The Department awarded £270,000 of the £500,000 total to 14 charities and organisations

Statistic	Outcome
Number of applications received	79
Number of applications awarded	14
Total value of applications awarded	£270,000

Note

¹ The Windrush Community Fund is up to £500,000 of financial support available to charity, community or grassroots organisations across the UK to fund projects which raise awareness of the Windrush Scheme (documentation), the Windrush Compensation Scheme or both.

Source: Home Office data on Windrush Community Fund applications and awards

¹¹ The Department issued the contract through single tender action. The contract began in December 2020.

Part Three

Compensation claims and payments

3.1 This part sets out the Windrush Compensation Scheme's (the scheme's) applications and payments, covering the period from its launch in April 2019 to the end of March 2021. It describes the number of applications, the value, frequency and speed of payments and claimants' support.

3.2 The Home Office (the Department) has received fewer applications to the scheme than it had anticipated. By the end of March 2021, the Department had 2,163 claims on its system, of which 730 (34%) were received by email and 1,433 (66%) were received by post.¹² Of these claims, 1,732 (80%) were from individuals, 313 (14%) were from family members and 118 (5%) were on behalf of the estate of someone who had passed away. The Department has decided 117 (5%) were ineligible. The claims received in the two years of the scheme represent 19% of the Department's estimate for the total expected claims. More than half of these claims arrived in the first nine months of operations when the Department was still building its operational capability (**Figure 9** and **Figure 10** on page 30).

3.3 The Department's Windrush Oversight Board (see paragraph 1.14) has acknowledged a substantial degree of uncertainty around the estimated volumes of applications and believes that the estimate is high. Despite this, the Department has regularly reviewed and decided to retain the October 2019 estimate of 11,500. At the time of publication it was reviewing its expected claim volume.

3.4 Of the 2,163 applications on its system by the end of March 2021, most claimants resided in the UK (94%) with a small number (6%) residing overseas. Applications to the scheme have been made by residents of 19 countries including the UK; Jamaica and the United States are the most common countries of residence outside of the UK. For claims received up to March 2020, the Department had made some form of payment within 12 months to 10% of claimants residing in the UK and 1.1% of claimants residing outside the UK.¹³ The Department has classified 280 of the applications received as 'high-profile', of which 15% of applications received some form of payment within 12 months. The Department has not defined how it determines which cases are 'high-profile'.¹⁴

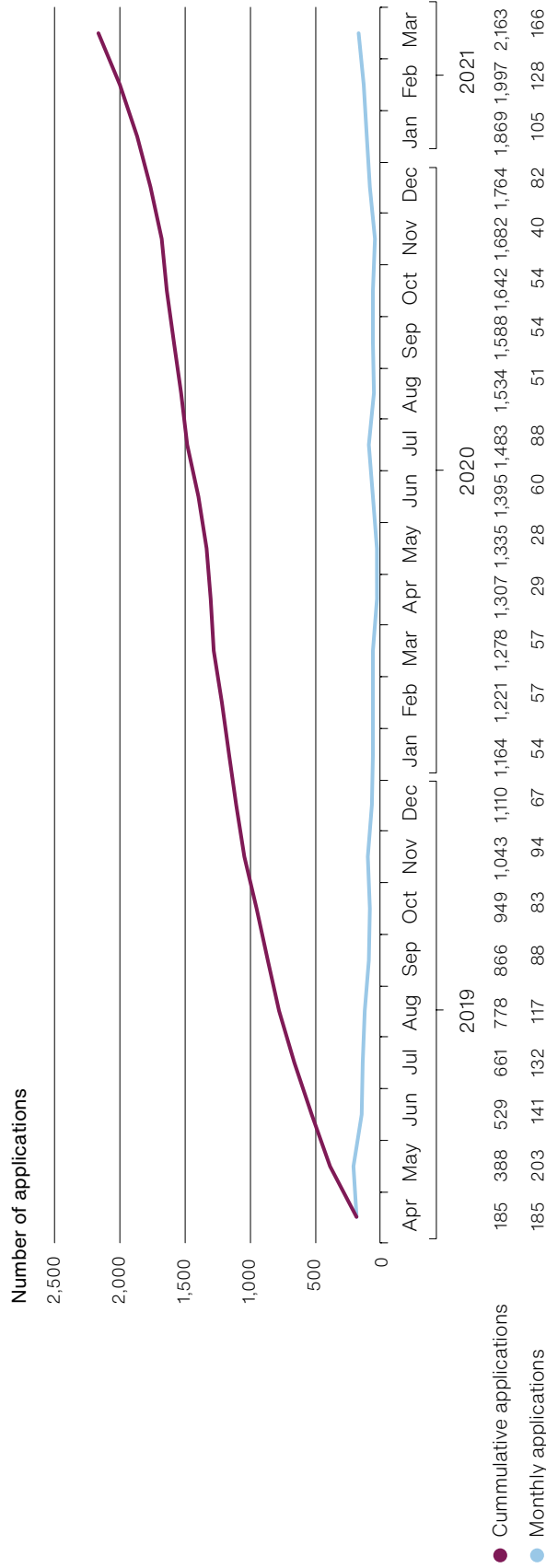
¹² The Department has an internal aim to upload cases to the system within five working days of receiving them. At 31 March 2021, the Department had received 30 cases that had not yet been uploaded to the system. Our data may therefore differ slightly from published statistics.

¹³ Application status for cases received up to March 2020, to allow 12 months of follow-up time for our analysis.

¹⁴ The Department does not define 'high-profile' in its guidance to staff. Its dataset records high-profile categories as: contact from the claimant's MP; details in the media; detained or deported; data breach or Home Secretary apology. The Department told us cases classified as 'high-profile' are not treated differently to other claims, but final decisions made on these cases require senior management approval. Application status for cases received up to March 2020, to allow 12 months of follow-up time for our analysis.

Figure 9
Cumulative number of applications to the Windrush Compensation Scheme

Of applications made to the scheme up to 31 March 2021, the Home Office (the Department) received half of the claims within the first nine months of its opening. The Department has seen an increase in claim rate since introducing changes in December 2020



Notes

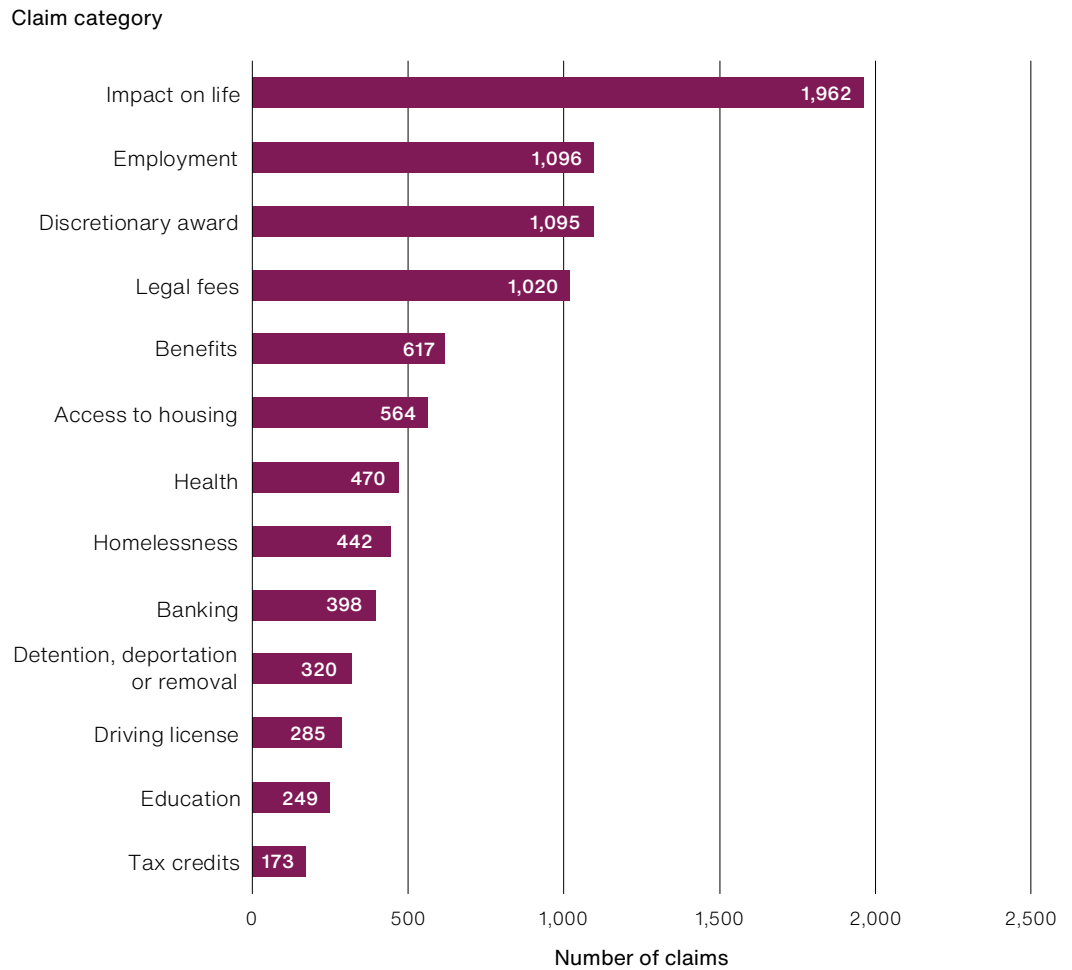
- 1 The Windrush Compensation Scheme launched and opened for applications in April 2019.
- 2 Changes introduced in December 2020 included an increase in minimum payments within its 'impact on life' claim category and a commitment to make a preliminary payment as soon as impact on life had been established.
- 3 Data presented is limited to the data available at time of publication.
- 4 Figure presents applications on the Home Office's system at 31 March 2021.

Source: National Audit Office analysis of Home Office applications data

Figure 10

Number of claims within each claim category

The Windrush Compensation Scheme (the scheme) has received nearly 2,200 applications. The most common category of claim is for impact on life. Almost half of claimants have claimed for access to employment and discretionary awards categories



Notes

- 1 The scheme had 2,163 claims on its system by 31 March 2021. The Home Office (the Department) has an internal target of uploading cases to the system within five working days of receiving them. At 31 March 2021, the Department had received 30 cases that had not yet been uploaded to the system.
- 2 Applications to the scheme can include more than one type of claim. Department staff may choose to award compensation in a category not originally claimed by the claimant.
- 3 The Department refers to claim categories as 'heads of claims'.

Source: National Audit Office analysis of Home Office data

3.5 By the end of March 2021, the Department had decided to award payments of £26 million and has paid out £14.3 million to 633 claimants (**Figure 11** overleaf).¹⁵ In some cases, these payments will be preliminary or interim payments and claimants may receive further payments at a later date. The Department has paid £11.6 million of payments to claimants since it announced changes in December 2020 (81% of total payments). The Department does not report whether these payments are preliminary, final or uplift payments. We estimate that 60% of payments since December relate to the policy changes, including £4.24 million in increased impact on life payments and £2.6 million in preliminary payments of £10,000. Payments made by the end of March 2021 ranged from £123 to £297,300. By the end of March 2021, the Department informed 210 claimants of its decision that they would receive no compensation payments.

Support for claimants

3.6 The Department has provided support to claimants through third parties. The Department set up a helpline which has been operating for the duration of the scheme and is available to the public Monday to Friday, 9 am to 5 pm. Through the helpline people can:

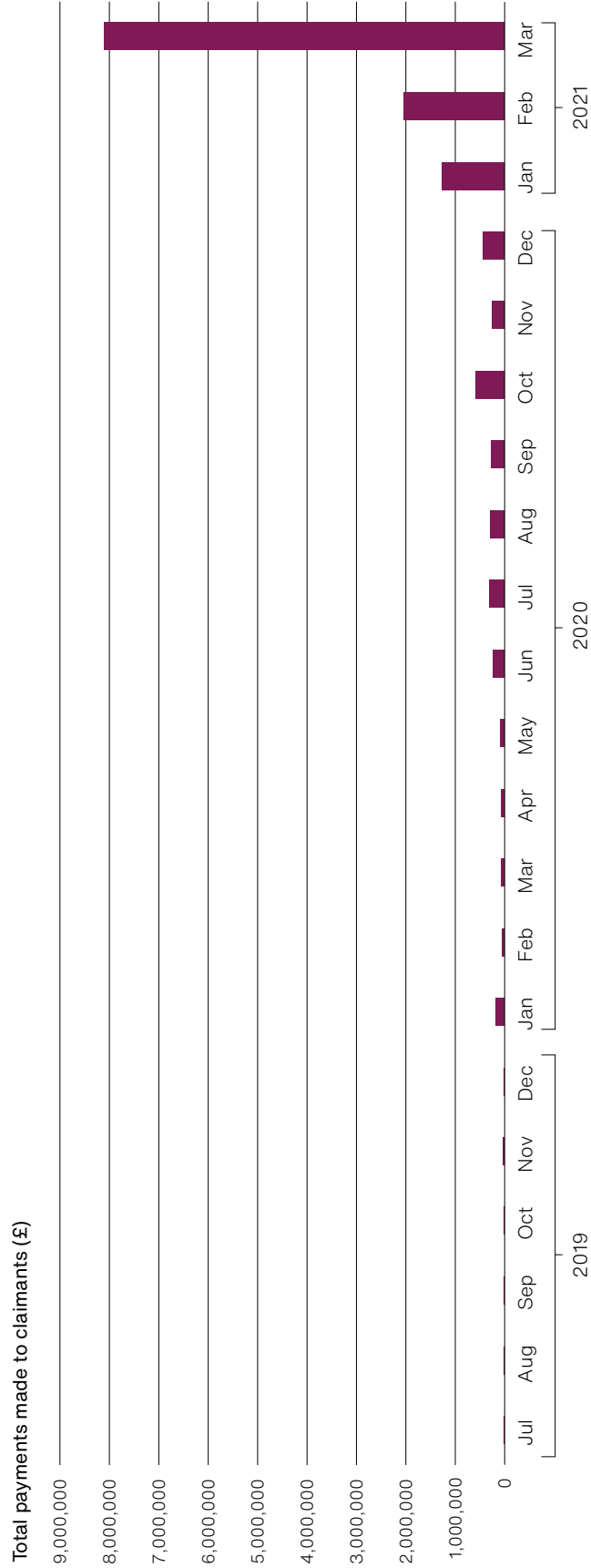
- access help to apply for documentation confirming their status; talk to the vulnerable persons team where safeguarding and vulnerability issues may exist or where they need urgent support; or
- be referred to the Claimant Assistance Service for help completing their compensation claim.

3.7 Until December 2020, Citizens Advice ran the Claimant Assistance Service.¹⁶ At the end of 2020, the Department retendered the contract and awarded it to a different organisation, We Are Digital. The Department does not permit claimants to access the support directly and requires them to go through its helpline for referral, although it is exploring the option of direct referrals with We Are Digital.

¹⁵ Data include £27,900 of Urgent and Exceptional Payments, which the Department excludes from its published data. The Urgent and Exceptional Payments policy provides for support to members of the Windrush cohort who have an urgent and exceptional need that cannot wait for a claim to be concluded or for a preliminary payment to be made under the Windrush Compensation Scheme. The Department deducts these payments from any compensation awarded.

¹⁶ The Citizens Advice contract has been extended until June 2021 for a small number of existing cases to support their completion.

Figure 11
 Compensation payments made under the Home Office's Windrush Compensation Scheme, July 2019 to March 2021
 The Home Office (the Department) has paid a total of £14.3 million in compensation since the launch of the Windrush Compensation Scheme in April 2019



Notes

- 1 The Department's first payment under the scheme was in July 2019.
- 2 Numbers may not sum due to rounding.
- 3 Data presented is limited to the data available at time of publication.
- 4 Data include £27,900 of Urgent and Exceptional Payments which the Department excludes from its published data. The Urgent and Exceptional Payments policy provides for support to members of the Windrush cohort who have an urgent and exceptional need that cannot wait for a claim to be concluded or for a preliminary payment to be made under the Windrush Compensation scheme. The Department deducts this from any compensation awarded.

Source: National Audit Office analysis of Home Office data

Part Four

Administering the compensation scheme

4.1 This part covers the Home Office's (the Department's) management of the Windrush Compensation Scheme (the scheme) to date. It describes the Department's expenditure and staffing position, IT systems, operational delivery and quality assurance.

Administration of the scheme

4.2 The Department set a budget of £15.8 million to run the scheme for the first two years. Between April 2019 and March 2021, the Department has spent considerably less than its budget running the scheme, spending £8.1 million. Of this £8.1 million, it spent £6.3 million on staff. Most of the remaining costs are IT and communications, claims assistance, adjudication and resource from other government departments (**Figure 12** overleaf). It does not include any legal costs. The Department has also spent £773,000 on communications and outreach, £14 million in compensation to claimants and plans to spend £500,000 through the Windrush Community Fund. It has an agreed budget of £9.0 million for the 2021-22 financial year.

4.3 Based on its original planning assumptions, the Department set a requirement for 200 full-time equivalent caseworkers at scheme launch. However, the Department thought it did not have time to recruit and train 200 caseworkers, so it reduced its requirement to 125 full-time equivalent caseworkers. When the scheme launched, the Department had six full-time equivalent case workers in post. The Department told us that at March 2021 it required 51 full-time equivalent caseworkers and had 53 in post. However, its records do not provide a clear picture of the number of caseworkers it needs and we found that the capacity plan and staff in post record differed from the figures presented to the scheme's senior management team. The Department advised us that the scheme's turnover of caseworkers was no higher than other areas of the Department. Our analysis shows that of all staff involved in casework on the system between March 2020 and March 2021, 25% have been active throughout the year. The Department has told us it does not believe this is a good measure of caseworker continuity as other staff, including managers and those responsible for quality assurance, are involved in casework on the system.

Figure 12

Budget and outturn data for Windrush Compensation Scheme administration

The Home Office's (the Department's) outturn has been much lower than expected in both years of running the scheme

Spend	Total budget for 2019-20 and 2020-21		Total outturn to 31 March 2021	
	(£000)	(%)	(£000)	(%)
Pay costs	9,923	63	6,346	78
Contingent labour	0	0	88	1
Travel and subsistence	155	1	45	1
Office supplies and services	325	2	24	0
Training and recruitment	145	1	13	0
IT and communications ²	748	5	246	3
Department for Work & Pensions resource	230	1	38	0
HM Revenue & Customs (HMRC) resource	800	5	92	1
HMRC adjudicator	564	4	400	5
Claimants' claims assistance	2,000	13	465	6
Claimants' medical referrals	200	1	0	0
Other costs and services	681	4	354	4
Total	15,771	100	8,111	100

Notes

- 1 Total may not sum due to rounding.
- 2 The Department estimates it has spent an additional £773,000 on engagement activity and marketing and has committed a further £500,000 to the Windrush Community Fund.
- 3 2020-21 outturn data has not been audited at time of publication.
- 4 This figure excludes money spent on compensation payment.

Source: National Audit Office analysis of Home Office financial data

4.4 The Department originally estimated it would take on average 30 staff hours to do everything required on a case, end to end. Up to 31 March 2021, cases that have resulted in a compensation payment being approved have involved 154 hours of staff time.¹⁷ This does not include time where the case is not actively worked on by a caseworker. Currently, caseworkers handle approximately 10 cases at any one time and have a productivity target of making decisions on two claims per week. The Department aims to increase the number of cases handled by a caseworker at any one time to 20 cases and make decisions on 200 cases per month by July 2021.

¹⁷ We have calculated staff time as the difference between the last allocation of a case to a caseworker and the completion time for a case at a given stage. This figure is an averaged sum over all stages. This value only counts working hours between 7 am and 7 pm, excluding weekends.

4.5 The Department is considering increasing its headcount of caseworkers by up to 10 before the end of June 2021. The Department accepts that the scheme's complexity means it takes time for staff to get up to speed, and therefore productivity will decrease at first.

IT systems

4.6 The Department has had difficulties in using its case management system and producing management information. The Department originally chose to use an existing Departmental correspondence system to run the scheme, which required only minor modifications by its Digital, Data and Technology function. This system had limited workflow functionality and so the Department used manual spreadsheets alongside it to monitor the progress of claims and generate management information. In November 2019, based on its assessment that cases were more complex than forecast and took a long time to process, the Department commissioned a new caseworking system for the scheme.

4.7 The Department aimed to migrate data to its new caseworking system by January 2020. However, it struggled to move data on to the new system and so it did not upload progress data for existing claims. The Department began using its new caseworking system in March 2020. Following the policy changes made in December 2020 (see paragraph 1.15), it had to return to using manual spreadsheets, which it will continue to use until an update of the system has been completed to accommodate the changes. As a result, performance data is held in different formats for different periods of the scheme. In interviews with staff, they advised this has made reporting management information to the Windrush Oversight Board more difficult.

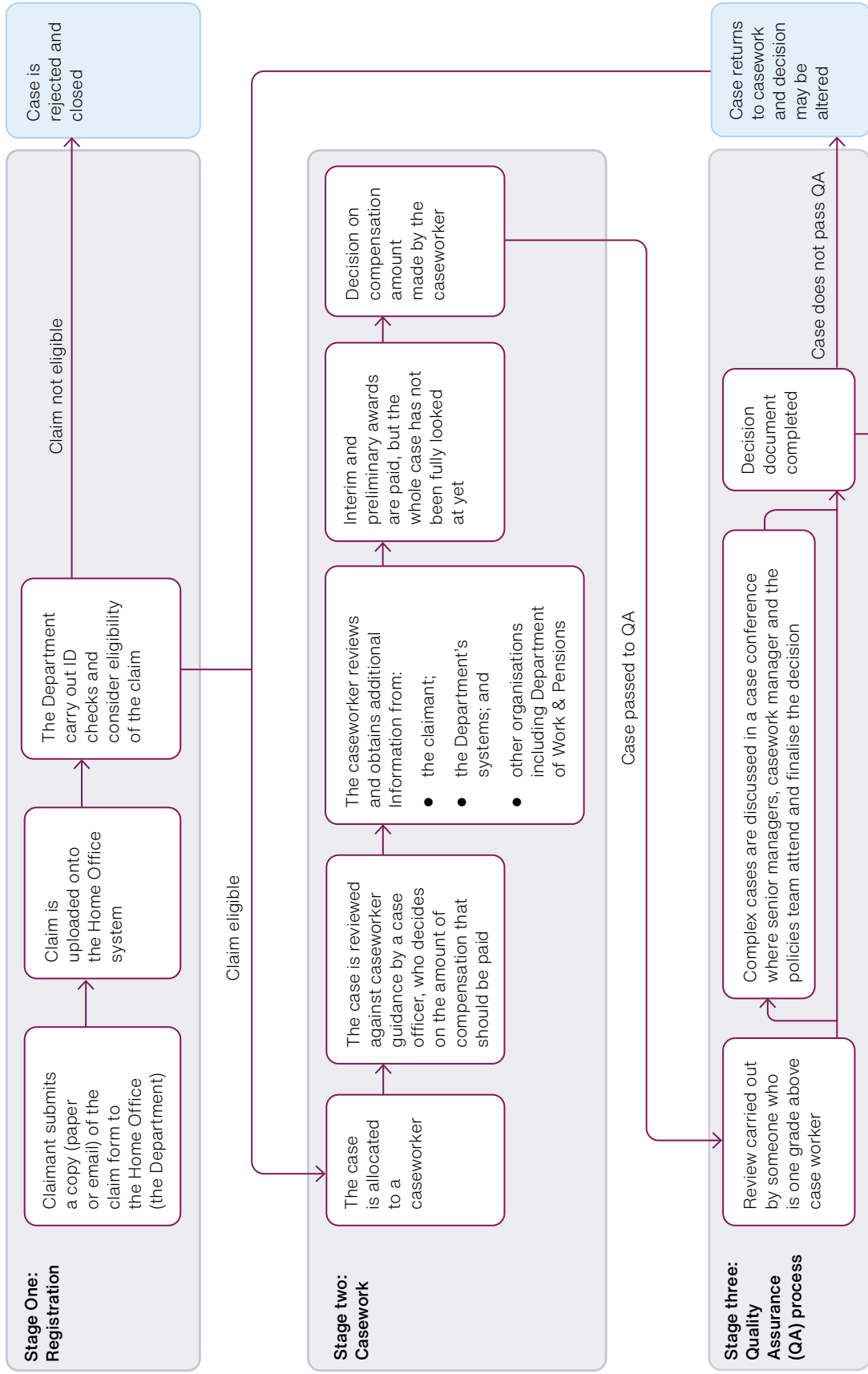
Claim progression

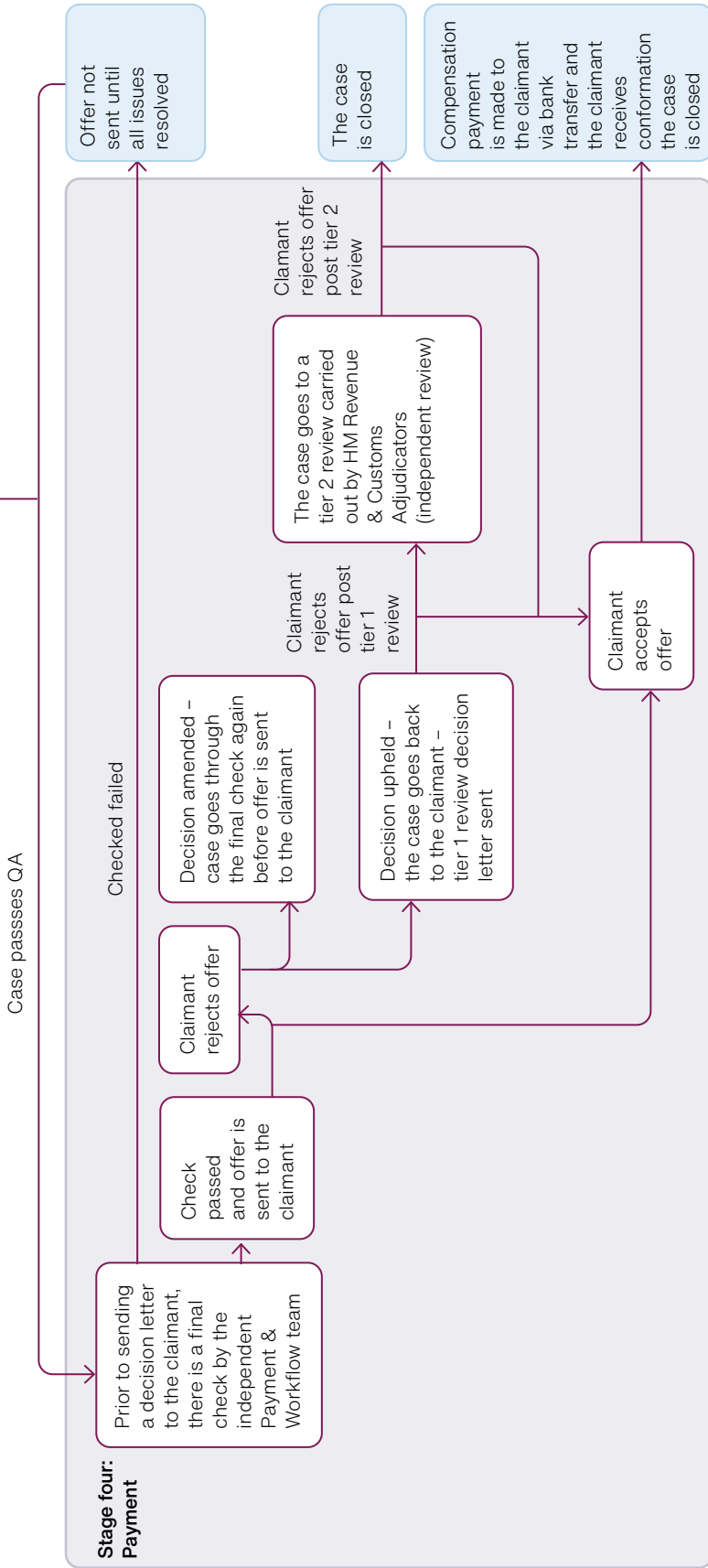
4.8 Claims go through four stages to receive a compensation payment: registration; casework; quality assurance; and payment (**Figure 13** on pages 36 and 37). Our analysis of the Department's data showed that by 31 March 2021, the Department had 414 claims (19%) in the payment stage (**Figure 14** on page 38). This represented 22% of all individuals' claims, 11% of all family claims and 2% of all claims on behalf of the estate of someone. Some requirements mean it can take time to progress a claim. For example, for claims on behalf of a deceased person's estate, the representative must have the relevant grant of probate, or in the case of no will, letters of administration. More than one-third of estate claims (34%) had not moved past the first registration stage of the compensation process. The Department's internal figures show that it has made final decisions on 824 (38%) of claims it has received to date, although some of these claims are subject to a review or have not yet resulted in payment where due. The Department calculates this number using a combination of the system data and manual spreadsheets and we were unable to reconcile it using the system data provided.

Figure 13

Windrush Compensation Scheme claim process

Claims go through a four-stage process to receive a compensation payment





Source: National Audit Office analysis of Home Office documents

Figure 14

Distribution of cases across the Windrush Compensation Scheme claim process

By 31 March 2021, the Home Office (the Department) had progressed 19 of applications to payment stage. Many cases remain ongoing. More than one-third of all estate cases have not moved beyond the registration stage

Current stage	Number of claimants							
	Estate		Family		Primary		Total	
	Number	%	Number	%	Number	%	Number	%
Registration	40	34	16	5	57	3	113	5
Eligibility checks	5	4	24	8	29	2	58	3
Rejected on grounds of eligibility or ability to verify identity	5	4	47	15	65	4	117	5
Casework	58	49	146	47	832	48	1,036	48
Quality Assurance review	0	0	1	0	43	2	44	2
Offer made to claimant	6	5	25	8	231	13	262	12
Tier 1 and Tier 2 review	2	2	20	6	93	5	115	5
Payment phase	2	2	33	11	379	22	414	19
Uncategorised	0	0	1	0	3	0	4	0
Total	118		313		1,732		2,163	

Notes

- 1 Claim status as of 31 March 2021.
- 2 If a Tier 1 review of a claim concludes that a different decision should be made the claim will return to casework.
- 3 A claim may be in payment stage to receive a preliminary payment before returning to casework.
- 4 Claims may also return from Quality Assurance review to casework for correction.

Source: National Audit Office analysis of Home Office scheme application data

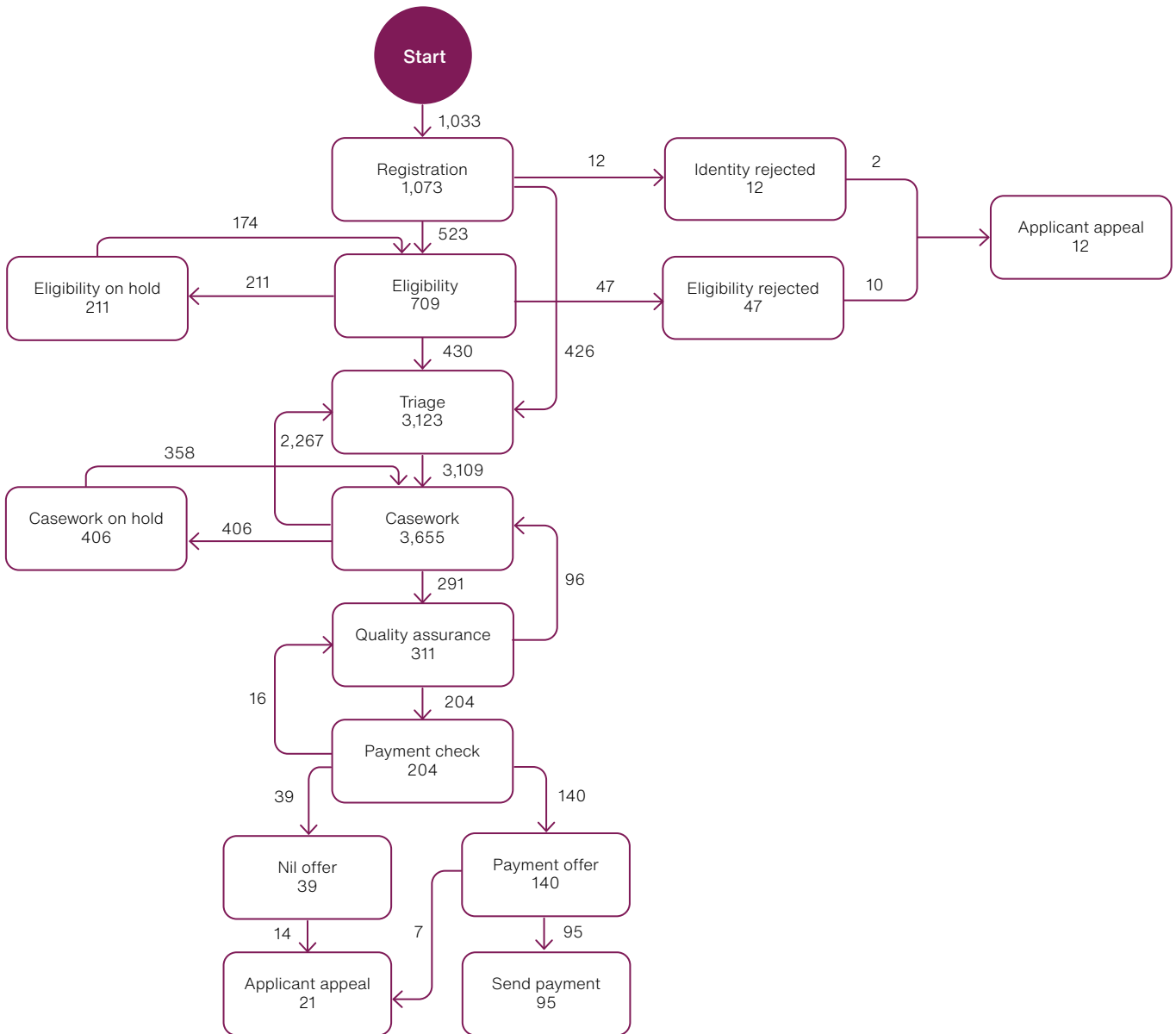
4.9 There is wide variation in how long the Department takes to process cases. We have analysed data for new applications since March 2020 (1,033 applications, 48% of total applications). In that time 102 cases (10%) reached payment approval stage.¹⁸ It took these cases an average 177 days to reach payment approval. Half of the cases took between 109 and 250 days. This analysis excludes older cases submitted before March 2020, many of which have taken longer. Analysis of the process shows that on average applications go through 15 steps before offering a payment to claimants. An average of 4.4 caseworkers work on a case before the offer stage (see Figures 13 and 14 above and **Figure 15**).

¹⁸ The Department began to use the new system formally in March 2020. Data from before March 2020 are not available for inclusion in this analysis.

Figure 15

Process map showing how cases registered after 13 March 2020 moved through the Home Office’s Windrush Compensation Scheme system – data as at 31 March 2021

Relatively few cases registered after 13 March 2020 had progressed to payment by the end of March 2021



Notes

- 1 Data relate to 1033 cases for which a registration stage was created after 13 March 2020 and show the observed movement of these cases through the system until the 31 March 2021.
- 2 The numbers shown are a count of instances of cases reaching a stage or moving between stages, rather than a count of the number of unique cases.
- 3 Some intermediate stages such as offer and payment approvals and payment preparation have been omitted for clarity.
- 4 Some movements between stages have also been omitted for clarity, including: a) cases moving back following successful applicant appeal; b) cases moving back to registration or eligibility following casework; c) cases moving back to casework following payment offer.

Source: National Audit Office’s analysis of Home Office applications data

4.10 For applications received since March 2020 where the Department has needed further information to decide on a case, caseworkers have returned to a claimant twice on average to request additional evidence. Caseworkers told us that they aim to ensure all claimants receive the maximum compensation owed to them, although this is not reflected in guidance or recorded in programme documentation. During the first 18 months of running the scheme, the Department used a mix of evidence thresholds. Some categories of claim contained an evidence threshold, stating that caseworkers should be ‘satisfied as to be sure’ or ‘beyond reasonable doubt’ that an individual’s losses had been caused by their inability to demonstrate their lawful status.¹⁹ Other categories told caseworkers to be ‘satisfied on the balance of probabilities’. Some claimants and community groups have commented that the documentation needed to prove a claim was burdensome, for example, through needing to provide payslips from many years before.

4.11 In October 2020, the Department lowered the burden of proof for the scheme so that all categories use the ‘on the balance of probabilities’ standard. The Department made caseworkers aware of the change and updated its guidance but did not provide any additional advice to experienced caseworkers about what might now be deemed acceptable that was not previously accepted, to ensure consistency in decision-making. The Department told us that the caseworkers understand what the change in evidence threshold means, as many categories already used the balance of probabilities threshold but was unable to provide examples of what the changes meant in practice for any of the affected categories. The Department is now undertaking a review of how evidential standards are applied in decision-making, claim forms, guidance and training to improve decision-making, with an aim to improve the experience for claimants.

4.12 The Department has set itself internal targets to improve case progression. In October 2020 the Department set out plans to reduce the number of cases awaiting a final decision during 2021. It set itself three milestones:

- to make a final decision on all cases submitted before June 2019 by the end of 2020;
- to reduce the number of cases awaiting a final decision to 500 by mid-July 2021; and
- to make a final decision on all cases submitted to the end of 2020 by the end of August 2021.

¹⁹ The categories of actual employment awards, reimbursement of private medical fees, losses resulting from denial of access to banking services and discretionary awards were previously on a higher evidence threshold of ‘satisfied as to be sure’ or ‘beyond reasonable doubt’. In October 2020, all but the actual employment award category lowered to ‘on the balance of probability’. A subsequent change was made to claims for actual employment awards in December 2020 to allow for these criteria to be moved to the lower threshold.

4.13 The scheme changes in December 2020 required the Department to review and apply the new rules to 1,450 cases. Additionally, it received a higher intake of applications for January, February and March 2021 than previous months. In March 2021 the Department reduced its planned milestones to two:

- to conclude 90% of cases submitted before the end of 2020 by the end of August 2021; and
- to hold only six months of cases awaiting a decision by the end of November 2021.

4.14 The Department also committed to offering the uplift payments for impact on life to those who had already received payment by March 2021. It also promised to pay preliminary payments of £10,000 for all individuals where impact has been demonstrated but decisions on awards had not been finalised.

Quality assurance and reviews

4.15 The Department conducts Quality Assurance (QA) checks on payments on a risk basis. This includes all cases with employment awards and all high-profile and nil award cases.²⁰ The Department performs these checks to ensure that caseworkers assess and calculate compensation awards correctly, and where managers find mistakes, they return the files to caseworkers for correction. In our walk-through of the decision and quality assurance process, a quality assurance manager told us that about four in five case files are returned to caseworkers for amendments before the Department can offer an award to a claimant. Our analysis shows that, of the cases that went for a quality assurance check, more than half needed to return to a caseworker for further work.

4.16 If claimants are dissatisfied with the outcome of their claims (for example, if they disagree with the decision or believe the amount owed is incorrect), they can request a review of the decision. The Department will conduct a 'Tier 1' review. A senior reviewer not involved in the original decision will review the case. This senior reviewer first looks at any decisions to reject a claim on the grounds of eligibility or to reduce or decline to make an award on the grounds of criminality or fraud. If the reviewer disagrees with either of these decisions, they return the case to casework. In any other case, the reviewer may review any decision that was open to the original decision-maker (for example, whether the applicant meets relevant criteria, whether the evidence provided is sufficient and whether rules, policy and guidance have been appropriately applied) and decide to either uphold or change the original decision. If dissatisfied with the outcome of a Tier 1 review, a claimant can request a further review; a 'Tier 2' review. An independent adjudicator conducts this review, with the aim of identifying any material decision made under the scheme with which they disagree. Up to 31 March 2021, 230 claimants had requested a Tier 1 and 42 have requested a Tier 2 review.

²⁰ The Department does not define 'high-profile' in its guidance to staff. Its dataset records high-profile categories as: contact from the claimant's MP; details in the media; detained or deported; data breach or Home Secretary apology. The Department told us that cases classified as 'high-profile' are not treated differently to other claims, but final decisions made on these cases require senior management approval.

4.17 The Department has made some errors in payments despite its quality assurance checks. Where the Department has made an overpayment, either due to erroneous decision or miscalculation, it has not sought to recover the overpaid amounts. Where the Department had formally made an incorrect, overvalued offer but not yet processed payment, the Department has chosen, based on legal advice, to accept that the error has taken place and advise the claimant of this but maintain the offer. As of March 2021, the Department was aware of six overpayments, totalling £38,292.30 in value, ranging from £31.51 to £20,646. Where the Department identifies an undervalued offer or underpayment, this would be appropriately uplifted and the claimant notified. The Department considers identification of underpayments to be the remit of Tier 1 reviews (Figures 13 and 14).

4.18 During our case file testing, we noted errors in calculation, in particular relating to the Access to Employment category. This included the application of income tax by calendar years (January-to-January as opposed to by tax years, April-to-April), overpayment due to the caseworker making a transposition error and using an incorrect method to calculate money owed over several years. Of the 10 items tested, we identified overpayments of £447 relating to two compensation payments worth £330,566 in total (0.14% error).²¹

²¹ These overpayments are in addition to those already identified by the Department.

Appendix One

Details of Windrush Compensation Scheme and available categories

1 **Figure 16** on pages 44 to 48.

Figure 16

The evidence requirements for the Windrush Compensation Scheme's 13 claim categories

Employment	Loss of access to benefits
<p>Loss of access to employment will be either:</p> <ul style="list-style-type: none"> based on the claimant's actual earnings (an actual award); or a general award 	<p>Loss of access to:</p> <ul style="list-style-type: none"> in-work benefits out-of-work benefits other benefits such as Child Benefit and Child Tax Credit
<p>Actual award Both 1 and 2</p> <p>1 That they:</p> <ul style="list-style-type: none"> had employment which was terminated; had an offer of employment rescinded; were unable to access employment but had been in regular employment over the two years prior to when they were first unable to access employment; or were required to defer the progression of a job application for a job which they were subsequently able to secure, and what their earning would have been. <p>2 That the reason for experiencing one of the above was their inability of the primary claimant or the deceased to demonstrate their lawful status in the UK.</p> <p>General award</p> <p>Where a claimant experienced one of the first three bullets under condition 1 above, but is unable to evidence what their earnings would have been or had not been in regular employment in the previous two years but can demonstrate they were actively seeking employment and were unable to progress job applications and can evidence 2, then the claimant will be eligible for a general award rather than an actual award.</p>	<p>Child Benefit and Child Tax Credit</p> <ul style="list-style-type: none"> they have been in receipt of or been denied access to Child Benefit or Child Tax Credit; they had that access terminated or been denied access because of an inability to demonstrate their lawful status in the UK; and they have not been in receipt of a payment of Child Benefit or Child Tax Credit from HM Revenue & Customs (HMRC) in relation to that period of loss. <p>Working Tax Credit</p> <ul style="list-style-type: none"> they have been in receipt of or been denied access to Working Tax Credit; they had that access terminated or been denied access because of an inability to demonstrate their lawful status including those who lost employment as a result of this inability and who were then denied access to Working Tax Credit because they were not working; and they have not been in receipt of a payment of Working Tax Credit from HMRC in relation to that period of loss.

■ Category

■ Type of award

□ Evidence requirement and conditions to be met

Education	Banking	Detention and removal
Denial of access to higher education as a home student and for reimbursement of international student fees	Denial of access to banking Reimbursement of direct financial losses	Detention Deportation and removal
<p>Denial of access to higher education as a home student</p> <ul style="list-style-type: none"> they were denied access to higher education as a home student in the UK and, as a result, did not attend any higher education institution, during the relevant period because they could not demonstrate their lawful status; and they would have taken up an opportunity at a higher education institution during the relevant period if they had not been denied access. <p>Reimbursement of international student fees</p> <ul style="list-style-type: none"> they paid international student fees rather than home student fees to attend a higher education institution during the relevant period; and this was because they could not demonstrate their lawful status. 	<p>Denial of access to banking</p> <ul style="list-style-type: none"> they were denied access to one or more banking services during the relevant period; and this was because they could not demonstrate their lawful status in the UK. <p>Reimbursement of direct financial losses</p> <ul style="list-style-type: none"> they incurred direct financial losses because of a denial of access to banking services during the relevant period; and this was because they could not demonstrate their lawful status. 	<p>Detention</p> <ul style="list-style-type: none"> the legislation detained under; whether they were detained in a removal centre, short-term holding facility, prison or part of a prison; their release from detention was prevented or not permitted by the relevant detaining authority; the dates on which the detention began and ended; a material reason for detention was the claimant's inability to demonstrate their lawful status, and that otherwise the claimant would not have been detained; and the length of time the claimant was detained. <p>Deportation and removal</p> <ul style="list-style-type: none"> they were deported and removed under the relevant legislation; and that the main reason for deportation or removal was the claimant's inability to demonstrate their lawful status, and that otherwise the claimant would not have been deported or removed.

Figure 16 *continued*

The evidence requirements for the Windrush Compensation Scheme's 13 claim categories

Fees	Health
Fees of unsuccessful applications Legal costs of unsuccessful applications	Denial of access to free NHS care Reimbursement of private medical fees incurred in the UK Reimbursement of private medical fees incurred overseas
<p>Fees of unsuccessful applications</p> <ul style="list-style-type: none"> the purpose of the application was to resolve their lawful status; the person in respect of whom the application was made did, in fact, have lawful status when the application was made; and the immigration application was unsuccessful solely because the claimant could not provide sufficient evidence of lawful status. <p>Legal costs of unsuccessful applications</p> <ul style="list-style-type: none"> correspondence from the Home Office relating to the immigration application in respect of the claim being made; paid invoice or receipt from a legal representative; and bank or credit card statement. 	<p>Denial of access to free NHS care</p> <ul style="list-style-type: none"> they were denied access to free NHS care and, as a result, did not receive any NHS treatment; or they would have been treated for a medical condition if they had not been denied access; and this was because they could not demonstrate their lawful status in the UK. <p>Reimbursement of private medical fees incurred in the UK</p> <ul style="list-style-type: none"> they were denied access to free NHS care for treatment of a medical condition because they could not demonstrate their lawful status in the UK; they paid private medical fees for the treatment of a medical condition; or they would have been eligible to receive equivalent treatment for the medical condition for free by the NHS had they been able to demonstrate their lawful status. <p>Reimbursement of private medical fees incurred overseas</p> <ul style="list-style-type: none"> they could not access free NHS care because they were not in the UK at the time they required treatment for a medical condition; the reason they were not in the UK at the time they required treatment for a medical condition was that they had been removed or deported, or refused re-entry, to the UK because they could not demonstrate their lawful status; they paid private medical fees for the treatment of a medical condition in the state in which they were resident during the relevant period; and they would have been eligible to receive the equivalent treatment of the medical condition for free by the NHS had they been in the UK with lawful status.

■ Category

■ Type of award

□ Evidence requirement and conditions to be met

Driving licences	Homelessness	Housing
Loss of access to driving licences	Homelessness	Denial of access to housing services including but not limited to Social housing, emergency council housing, the private rental sector and the right to buy scheme
<p>The Driver and Vehicle Licensing Agency (DVLA) will process claims relating to loss or refusal of driving licences in line with their existing procedures, following a referral and authorisation from the Home Office (the Department). Caseworkers will need to inform the DVLA that the claimant has their lawful status confirmed so they are eligible for a UK licence. The DVLA will then invoice the Department for any payments made. Any wider loss that the claimant has experienced as a result of losing their driving licence, loss of employment, is compensated for by the Department.</p> <p>It is possible that a claimant may include information about loss or refusal of a driving licence as part of a claim for impact on life or loss of access to employment.</p>	<p>The claimant or the deceased became homeless on or after the relevant date this was because they could not demonstrate their lawful status in the UK.</p>	<ul style="list-style-type: none"> ● they were denied access to one or more housing services during the relevant period; ● they would have accessed housing services during the relevant period had they not been denied access; or ● they were denied access to housing services because they could not demonstrate their lawful status in the UK.

Figure 16 *continued*

The evidence requirements for the Windrush Compensation Scheme's 13 claim categories

Impact on life	Non-financial remedies	Discretionary payments
Impact on the claimants life	Letter of apology	Some individuals may, exceptionally, have evidence of other impacts, losses or detriments attributable to status difficulties which may merit a discretionary award
<p>Claimants must evidence that the primary claimant, the deceased or the close family member experienced detrimental impacts as a direct consequence of being unable to demonstrate lawful status.</p> <p>Lower-level impacts, such as inconvenience or distress, evidence may just be circumstantial. Higher-level impacts that have a greater effect on a claimant should be accompanied by directly relevant evidence.</p> <p>A claim for impacts on mental or physical health should be supported by:</p> <ul style="list-style-type: none"> ● medical evidence of the detriment suffered; and ● an opinion that this was caused by, or exacerbated by, uncertainty over lawful status. <p>Claimants that were unable to work owing to physical or mental health impacts caused by issues over lawful status should provide medical evidence which demonstrates:</p> <ul style="list-style-type: none"> ● that they were unable to work together with an opinion that this had been caused or exacerbated by concern over lawful status; and ● evidence that they were in employment and the period for which they were unable to work. <p>Claimants that have experienced family separation or inability to attend family events are required to provide evidence in support of this.</p>	<p>Where a claimant is awarded compensation the award is accompanied by an apology letter. The letter acknowledge what has happened to the claimant or close family member (or in the case of an eligible estate, the deceased) and for any role that the Department may have played in the impact or loss suffered.</p> <p>The letter is not a stock, template letter and is tailored to the circumstance of the impact on each claimant.</p>	<p>Primary claimant (or in relation to an estate, the deceased):</p> <ul style="list-style-type: none"> ● the impact, loss or detriment experienced must be significant; ● of a financial nature; and ● be a direct consequence of being unable to establish their lawful status. <p>Close family member:</p> <ul style="list-style-type: none"> ● the impact, loss or detriment experienced must be significant; ● of a financial nature; and ● be as a direct result of being adversely affected by the primary claimant's inability to establish their lawful status. <p>All claimants:</p> <ul style="list-style-type: none"> ● the impact, loss or detriment does not qualify for compensation under any other categories under the scheme, whether or not an award has been made under one or more of those categories; ● the impact, loss or detriment is not excluded from consideration under other criteria of the scheme; and ● the evidence, mitigation and causation requirements have been met.

■ Category

■ Type of award

□ Evidence requirement and conditions to be met

Source: National Audit Office analysis of the Home Office's Windrush Compensation Scheme caseworker guidance

Appendix Two

Our investigative approach

Scope

1 This investigation provides an overview of the Home Office's (the Department's) Windrush Compensation Scheme (the scheme). We investigated four specific concerns. These were:

- how the Department designed the scheme and made subsequent changes to the scheme;
- the outreach work of the Department with affected communities to raise awareness of the scheme;
- the scheme performance including the number of claimants, the processes of awarding compensation, and the speed of payments; and
- the administration of the scheme.

2 The report sets out the facts relating to:

- the scheme design and governance;
- the Department's steps to engage with affected communities;
- the number of claims received and amount of compensation paid; and
- the administration of the scheme.

3 The investigation is non-evaluative. We have not assessed the value for money of the scheme.

Methods

- 4** In examining these issues, we drew on a variety of evidence sources.
- 5** We interviewed working level staff and senior officials at the Department to determine how the Department originally set up scheme, how it currently operates and how it is implementing the changes to the compensation scheme that it introduced in December 2020.
- 6** We reviewed a range of official documentation covering the setup and performance of the scheme, and changes made to the scheme, including:
 - ministerial submissions and board minutes that detailed the case for funding and how decisions were taken;
 - contracts between the Department and third-party suppliers to understand the contractual arrangements; and
 - relevant statements and announcements by the government and the Department.
- 7** We have analysed two datasets from the Department. The first dataset includes anonymised data on each case the Department has received, including current status of the claim, characteristics of type of claim (individual, family, estate, nationality) and awards. We have used this to assess progression of claims, current status and progress in implementing the changes made to the scheme in December 2020. The second dataset looks at individual process steps by Departmental staff members, length of time for each stage of a claim and the process claims follow. We have used this to understand how cases flow through the system, how many times claims change hands from one staff member to another and the length of time staff work on cases.
- 8** We have also reviewed analysis undertaken by the Department to evaluate the success of its engagement work to help promote the Windrush schemes.
- 9** We have undertaken a walkthrough of a small number of cases to understand the processes that claims will go through at each stage (registration, casework, quality assurance, payment). We have also reviewed ten cases which have reached payment stage to assess accuracy of the payment calculation and to ensure the case has been completed correctly.
- 10** We conducted fieldwork between January 2021 and March 2021. Data presented in this report are correct as at 31 March 2021.

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