



Since publishing this report,
we have changed our name to
the **Public Service Ombudsman**.

Our role and the service
we provide remain the same.

Public Service
Ombudsman

Spotlight on the Windrush Compensation Scheme: your stories, your rights



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Foreword from the Ombudsman

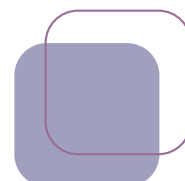
The Windrush Compensation Scheme was set up to pay people fairly for the suffering caused by failings in public services. However, I have seen that the journey to justice has not been straightforward for many individuals and their families.

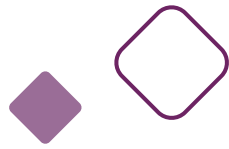
For the last four years, we have closely monitored the complaints we have received about the Compensation Scheme. The stories we have shared in this report show the wide-ranging and complex challenges people have faced and how we have intervened to make a difference. We have also advocated for future claimants by calling for changes to the Compensation Scheme's eligibility criteria.

We know there are more people struggling with the Compensation Scheme than those who have come to us. The need for people to ask their MP to refer a complaint to us prevents many people from seeking the help they need. This is something we have asked the Government to change.

When things go wrong, public services must listen to people and help them. Our role is to help build trust between people and public bodies, leading to better public services. This latest spotlight report, following on from previous publications on sepsis and maternity care, once again shows the need to talk about failings in public services. The experiences of those affected by the Post Office scandal, the Infected Blood Inquiry and the communication of changes to the women's State Pension age echo what we have also been hearing from Windrush generation complainants. Those who have been failed cannot be let down all over again by the mechanisms established to provide compensation.

The lessons learned here have far-reaching implications for how we provide appropriate and timely remedy when an organisation has done something wrong or provided a poor service. We hope our report will lead to changes in the Windrush Compensation Scheme and also essential learning ahead of what may follow for the victims of those other, well-publicised failings.





We have a collective responsibility to make sure the Windrush generation receives the justice they are owed. To those who have experienced difficulties with the Compensation Scheme, we urge you to speak up. Your voice matters, and we are here to help.

Rebecca Hilsenrath
Parliamentary and Health
Service Ombudsman



Introduction

In September 2020, we set up a Windrush working group to keep track of complaints we received about the Windrush Compensation Scheme (the Compensation Scheme).

All complaints about government departments or agencies must be referred to us via a Member of Parliament (MP). This report looks at some of the 46 complaints people have brought to us about the Compensation Scheme in the last three years. We share their stories of what went wrong and how we helped put things right. We want to encourage others to complain if they have had a negative experience when applying for compensation.

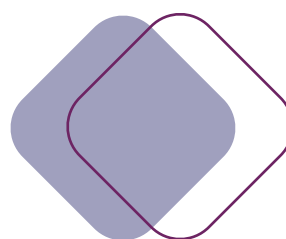
We commissioned research from the [Caribbean and African Health Network](#) (CAHN) that suggests people from the Windrush community are less likely to ask for help compared to some other population groups.

We are sharing case summaries and guidance to:

- help people who might need to make a complaint about the Compensation Scheme
- help the organisations involved understand the issues people are facing.

“The culture of the Caribbean and African people is to fend for themselves; hence, they do not seek help.”

**CAHN
research,
May 2024**



The Windrush generation

In June 1948, the 'Empire Windrush' ship arrived in Tilbury, Essex carrying hundreds of passengers from the Caribbean. After two devastating world wars, the UK desperately needed workers. The British Nationality Act 1948 gave citizenship to these people, meaning they could live, move freely and work in the UK permanently.

Between the late 1940s and the early 1970s, nearly half a million men, women and children left their homes and answered the call to live and work in the UK. Many took up invitations to work for the newly created NHS as nurses, midwives, cleaners, cooks and porters, or for bus, underground and rail services.

The term 'Windrush generation' is used to talk about people who arrived in the UK from British Commonwealth countries (not just the Caribbean) between 1948 and 1973.

When the 1971 Immigration Act came into force from 1 January 1973, the free movement of British subjects ended and Commonwealth citizens arriving in the UK had to follow a different immigration process.

This caused confusion among some people from the Windrush generation who had the right to remain indefinitely. They did not know they had to get official documents confirming their right to live and work in the UK.

The Windrush scandal

The 'Windrush scandal' emerged in late 2017. News stories revealed the poor treatment of people who were lawfully living in the UK but did not have any documents to prove their rights. Many were treated as 'illegal immigrants' and denied access to vital services. Some were detained and others were deported. These actions were part of the 'hostile' or 'compliant' environment policy set up by the UK Home Office from 2012 onwards to deal with illegal immigration.

In 2018, following increased public and parliamentary pressure and media attention, Prime Minister Theresa May apologised for the mistreatment of Commonwealth citizens.

On 23 April 2018, the then Home Secretary, [**Amber Rudd made a statement to Parliament**](#), saying "an apology is just the first step we need to take to put right the wrong these people have suffered". She outlined several actions the Government was taking to address the issues faced by the Windrush generation.

In June 2018, Wendy Williams, then HM Inspector of Constabulary and Fire and Rescue Services, was appointed by the Home Office to carry out an independent review looking at the events leading to the Windrush scandal, focusing on events from 2008 onwards.

The Home Office also made commitments to help people affected by setting up:

- the Windrush Scheme to help people apply for the documents they needed to prove their status
- the Windrush Compensation Scheme to make payments to people who had suffered because of not being able to show their lawful right to stay in the UK.



The Windrush Lessons Learned Review

In March 2020, Wendy Williams published her [Windrush Lessons Learned Review](#). This independent review found the Windrush scandal was foreseeable and avoidable. The report made 30 recommendations and highlighted a need for “systemic and cultural change”.

In July 2020, Home Secretary Priti Patel said the actions that led to the Windrush generation’s suffering were an “ugly stain on the face of our country and on the Home Office”. The Home Office accepted all 30 recommendations. It published a Comprehensive Improvement Plan in September 2020, which set out how it would implement them.

In January 2023, Home Secretary Suella Braverman announced the Government was dropping three key recommendations from the review:

- setting up a commissioner responsible for “speaking up for migrants and those affected by the system directly or indirectly”
- giving new powers to the independent chief inspector of borders and immigration
- holding “reconciliation events” with people affected to “listen and reflect on their stories”.

This decision has recently been challenged. In April 2024, the High Court heard a legal claim made by a man affected by the Windrush generation scandal. The claim said the decision to drop these recommendations was institutionally racist (discriminatory) and another example of broken promises made to the Windrush generation. The claim is being supported by the [Black Equity Organisation](#) and [Unison](#).

The Windrush Compensation Scheme

The Windrush Compensation Scheme is open to people who:

- came to the UK from a Commonwealth country before 1973
- have parents or grandparents who came to the UK from a Commonwealth country before 1973
- came to the UK from any country before 31 December 1988 and are now settled here
- are a close family member of someone eligible to claim and have had significant losses themselves
- are representing the estate of someone who would have been eligible.

People who apply may be able to get compensation for losses relating to:

- not being able to work or find a place to live
- not being able to access health services, education or banking
- immigration fees, detention or removal from the UK
- daily life and living costs.

Compensation starts at a minimum of £10,000 and can go up to £100,000 or more. There is no limit on the total amount, and no end date for the scheme. To date, just over 7,600 compensation claims have been fully closed with more than £92 million awarded.



Applicants can request a review of the Compensation Scheme's decision if they are not happy with it. The independent Adjudicator's Office carries out any review. If applicants are still not happy with the decision, they can ask their MP to refer the complaint to us. For more information about who can apply and how to do so, see the [Windrush Compensation Scheme website](#).

Evidence from our casework

In 2019, we began seeing a small number of complaints about the Windrush Scheme. This included a case where we found a [man who faced unreasonable delays in getting a decision](#) about his immigration status. We recommended a financial payment of £5,000 to recognise both the distress and also delays in being able to access housing and support.

We started getting complaints about the Compensation Scheme in 2021. Most of the complaints people have brought to us are about decisions the Compensation Scheme has made. These complaints are about the Compensation Scheme:

- telling people they were not eligible for compensation by wrongly applying its own rules
- not always looking at all the evidence provided
- applying the rules even when they led to unfair outcomes for some people. It is likely that the unfairness of some of the rules may have affected more people than the cases we have seen.

Since we started looking at complaints about the Compensation Scheme, the Home Office has agreed to look again at nine cases that we have asked it to reconsider. We do not know the outcome of some of these cases because the Compensation Scheme is still looking at them and reviewing some of its rules and systems.

“The Ombudsman intervened and helped me to challenge the Compensation Scheme’s decision. Now, they have accepted that I am eligible and that my case can be considered. The scheme has also changed the criteria so that others who are unable to live together are eligible for consideration.”

– Beverley



So far, our work has secured

£432,592

in payments for people who have complained to us.

Listening to the people affected

People who have been negatively affected by the Compensation Scheme's decisions have told us they want what happened to them to matter. They want this to lead to changes that could help other people affected by the Windrush scandal, or those caught up in other public scandals in the future.

We hope the stories and guidance in this report will help more people share their experiences of the Compensation Scheme and understand their right to complain.



We believe in the power of complaints. By revealing the truth, they show how mistakes can affect people's lives and help organisations learn and improve services for everyone.

Case summaries: sharing people's stories

These case summaries show some of the themes we have seen in complaints people have brought to us about the Compensation Scheme.

Where we saw signs that something had gone wrong, we looked at how these affected the individuals and what the Compensation Scheme needed to do to put things right.

These examples are all cases where we did not have to carry out a detailed, longer investigation. We wanted to get the best outcomes for complainants in the shortest time possible, as many people who come to us have already been going through the Compensation Scheme's process for a long time.



We cannot decide on levels of compensation – only the Compensation Scheme can do that. We can look at errors in its decision-making process and ask the Compensation Scheme to look again at the decision. We were able to talk to people at the Compensation Scheme about the problems and agree how they could address them to make sure we achieved the best possible outcomes for the individuals affected. We were also able to agree ongoing improvements.

* We have not used the complainants' real names in this report, apart from in Rachelle's case.

Guidance and facts not properly considered

The complaint

Samuel* came to the UK from Jamaica as a child in the 1960s, to join his parents. His right to live and work in the UK was recorded by a stamp in his passport. Unfortunately, he later lost the passport. He left school when he was 16 and started work. He had no problems getting employment and gave his National Insurance number to new employers.

In 1997, the Government tightened the law to address the problem of illegal migration. These changes included making it an offence for employers to offer a job to someone who did not have the right to work in the UK. Employers had a valid defence if they had seen evidence of the person's right to work.

Samuel took time out from work in 2002 when his son was born. When he started applying for jobs later that year, he could not get one because he was unable to prove his right to work in the UK. Samuel has remained unemployed and in receipt of Jobseeker's Allowance ever since.

Samuel made a claim to the Compensation Scheme for loss of access to employment for 17 years and the impact on his life.

Samuel complained that the Compensation Scheme and then the Adjudicator's Office made the wrong decision on his claim in 2021. He said they should have made an award for loss of access to employment based on the evidence he provided. He said their actions meant he did not get the compensation he deserved.

What we saw in our investigation

We saw signs of mistakes in the Compensation Scheme's decision on Samuel's compensation claim. Samuel provided evidence from a prospective employer that said: "Unfortunately, the documentation you provided did not meet our regulations of evidence to support your right to work in the UK. Based on this information provided we are sorry to say your application is rejected."

In 2002, the Home Office's guidance for employers said evidence of a National Insurance number should be acceptable as proof of right to work, such as an official tax document (a P45 or P60). The Compensation Scheme told us it thought Samuel's difficulties from 2002 were caused by being unable to provide photo identification, such as a passport or photo driver's licence. But Samuel told us he had provided official tax documents showing his National Insurance number to prospective employers, which appeared to meet the Home Office guidance. The Compensation Scheme agreed to consider Samuel's compensation claim again.

We saw similar signs of mistakes by the Adjudicator's Office. It had not identified that the Compensation Scheme's decision was not following the guidance or recommended that the Compensation Scheme should reconsider its decision on Samuel's case.

Putting things right

Because of our investigation, the Compensation Scheme agreed to reconsider Samuel's compensation claim about loss of access to employment. After looking again at the details of the case, the Compensation Scheme said:

“we are satisfied you had an offer of employment withdrawn because you were unable to demonstrate your right to work”.

The Compensation Scheme awarded Samuel

£292,593

in February 2024.



Eligibility for compensation incorrectly advised for years

The complaint

Joyce's* father came to the UK from Jamaica in 1959 and lived and worked here for the next 15 years. Joyce was born in the UK and was a child in 1974 when she travelled with her parents and brother to Jamaica to go to a family funeral. Joyce's father was not allowed to return to the UK, and the family were forced to leave their life and everything they had built here behind.

The Compensation Scheme said Joyce was not eligible under the scheme because she was not lawfully in the UK when she experienced the loss for which she was claiming compensation.

Joyce complained that the Compensation Scheme's decision did not make sense. She said she and her family were not in the UK because the Home Office had confiscated her father's passport and wrongly refused to allow them to return.

Joyce said she and her family suffered for years and ended up living in poverty because the UK denied her parents their right to return home. She said her father had no close family members in Jamaica and the family were stranded as it was only supposed to be a short visit. They eventually settled in the USA several years later.

Joyce explained the trauma this caused for her and her brother as children and said they still suffer psychologically as a result.

“My family suffered for years as a result of the UK denying my parents their lawful right to return home. Imagine going overseas to a funeral and never being able to return home. My parent's job, our schools, our home, all of our possessions were in the UK.” – Joyce

Joyce also complained about how long the Compensation Scheme took to make a decision about her claim. She wanted it to apologise, accept that things went wrong and consider her claim more quickly. She also wanted compensation for the distress the Compensation Scheme's decision caused her and systemic changes to make sure the same thing does not happen to anyone else.

What we saw in our investigation

Joyce applied to the Compensation Scheme as a close family member in 2020 but was told she was not eligible for the scheme. The Compensation Scheme says it can only consider claims from close family members if they meet the eligibility criteria, including being lawfully in the UK at the time.

Joyce told us she and her brother were born in the UK and are British citizens. She said the Home Office was relying on its own error in denying the family their right to return home to refuse her claim.

We saw that the Compensation Scheme's rules suggested Joyce had a lawful right to be in the UK at the time because she was a British citizen.

Putting things right

We requested more information from the Compensation Scheme. Following our involvement, it reviewed how the policy was applied to this case and found that its decision was incorrect.

It said as a British citizen Joyce had the right to live in the UK at the time, despite being overseas, so she was eligible to claim.

The Compensation Scheme awarded Joyce

£70,000

in July 2023.



Not all evidence considered for a claim

The complaint

Rachelle was living with her father when he had difficulties proving his right to live in the UK. He had come to the UK from Antigua as a child, but later had his passport stolen. When he applied for a passport in 2005, he was told he was never on record as living in the UK. Rachelle supported her father through the long and frightening process of proving his right to live in the UK, which caused her a lot of worry and distress.

Rachelle complained about how the Compensation Scheme handled her claim. She said it had been unwilling to recognise the serious impact of what had happened to her. She said it had not made any effort to assess her mental health or spoken to her GP or counsellor.

“To be heard and for my father and my family to be treated fairly, I had to expose my family to the media, face racial abuse on social media, leave my career and continue to struggle with my mental health. I want the racial, emotional and mental abuse I suffered to be recognised and compensated so I can heal.” – Rachelle

Rachelle wanted the Compensation Scheme to apologise and look at all the evidence to make sure she was compensated properly.



What we saw in our investigation

Rachelle asked for a review of her case, which was passed to the Adjudicator's Office. It decided the Compensation Scheme should have gathered more evidence to understand how Rachelle's mental health had been affected. It said if the Compensation Scheme found evidence to support her claim, it should increase the compensation awarded.

The Compensation Scheme looked at more evidence but confirmed it would not change its original decision on her claim.

Rachelle had given the Compensation Scheme contact details for her assigned GP and counsellor, and witness statements from colleagues about the impact on her mental health. It had not contacted these people. We felt the Compensation Scheme was still not looking at all the evidence.

Putting things right

We asked the Compensation Scheme to look at all the evidence and it agreed to do this.



The Compensation Scheme increased the original award for Rachelle of £20,000 to

£70,000
in May 2023.



Unfairness in rules for close family member eligibility

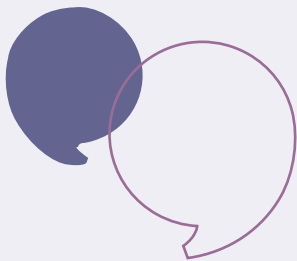
The complaint

Beverley's* partner was given a deportation order while he was in prison. Beverley said she tried to stop him being deported because it was important for their son to have his father in his life. She said this was a prolonged and challenging struggle that lasted 21 months. While her partner was still being held in an immigration prison, the Windrush Scheme granted him British citizenship. Beverley applied to the Compensation Scheme due to the loss of her family life, unnecessary legal expenses and worrying about the constant threat of her partner being deported.

Beverley complained about the Compensation Scheme's decision that she was not eligible for compensation as a close family member. She said its reason – that she was not married to or living with her partner – was unfair because he was in prison. She said the Compensation Scheme knew this and had not suggested any other criteria that it could accept as proof she was a close family member.

“I struggled to raise my son as a lone parent while his father was in prison; I carried them both and the Windrush Compensation Scheme failed to see the strength in that. It made me feel deflated. I was left to feel ashamed that I could not live with my partner. Their logic has tremendously affected my mindset, happiness and family life.” – Beverley

Beverley wanted the Compensation Scheme to recognise her as a close relative and partner and consider her eligible for compensation. She also wanted it to apologise for the stigma of its earlier decision not to recognise her as a partner.



What we saw in our investigation

We looked at the evidence and saw that the Compensation Scheme accepted Beverley's relationship with her partner, as she had a child with him and they visited him regularly in prison. But the rules meant she was not eligible to apply to the scheme.

Our '[Principles of good administration](#)' say public bodies should act fairly. If applying the rules strictly would lead to an unfair result for someone, the public body should look for ways to address the unfairness. We saw signs that the Compensation Scheme's decision was not in line with these principles.

“Thank you so much for advocating on my behalf... I finally feel like I am getting the closure I need to move on from this ordeal.” – Beverley

Putting things right

When we discussed this with the Compensation Scheme it agreed to review its rules. This could have a wider impact for other people applying to the scheme.

In April 2024, it completed this review and changed its guidance to recognise that there may be circumstances where one person in a relationship was away from the family home for reasons outside of their control, including being in prison, hospital or a nursing home.

The Compensation Scheme told Beverley her claim was now eligible to be considered.



Wrong decision made even with supporting evidence

The complaint

Veronica* came to the UK from Jamaica in 1967 to join her parents and gave birth to her daughter here in 1995. She applied for British citizenship in 1998 and it was granted two years later. Her grandson applied for a passport in 2018, but it was refused because there was no proof that Veronica was resident in the UK when her daughter was born.

Veronica said having her right to live in the UK questioned made her feel “extremely angry, confused and upset” and was “totally humiliating”. She said the process made her health problems worse. Her MP suggested she should apply to the Compensation Scheme. She applied in 2019 with support from a charitable advocacy organisation.

Veronica complained that in September 2020 the Compensation Scheme wrongly decided that she was not entitled to compensation. She said its rules are too narrow and should be changed to allow her, and others, to get compensation.

What we saw in our investigation

We looked at why the Compensation Scheme refused Veronica’s compensation claim.

It decided that the difficulty Veronica had experienced was caused by HM Passport Office’s processes in terms of its requirements as to proof of residency. The problem was not that Veronica was unable to show her right to live in the UK. But we saw that the Compensation Scheme did have evidence at the time from HM Passport Office that Veronica was unable to show her right to live in the UK. This shows she was eligible to apply for compensation from the scheme.

Putting things right

We discussed this evidence with the Compensation Scheme. It decided to withdraw its original decision on Veronica’s claim and reconsider it.

**The Compensation Scheme
awarded Veronica**

£20,000

in September 2023.



Making a complaint about the Windrush Compensation Scheme

Complaining about a UK government department can be a confusing process.



We are the final stage for unresolved complaints and we usually expect you to complain to the organisation you are unhappy with first. This is so it has the chance to look into your concerns and, where needed, put things right.

If you have reached the end of the complaints process and are not happy with the organisation's final decision, you can complain to us.

This guide explains how to complain about the Windrush Compensation Scheme and what to expect. You can also **read our tips on how to make a complaint.**



How to make a complaint

1. Request a review of the decision

If the Compensation Scheme has refused all or part of your claim, you can request a review of the decision. You must do this within two months of the decision being made.

Once the Compensation Scheme has finished the review, it will give you the decision in writing. Within two months you must either accept this decision or [request a Tier 2 review](#). This is where the independent Adjudicator's Office looks at your case.

The Adjudicator's Office will look at the decision and how the Compensation Scheme handled the claim. You will then have two months to accept the decision made by this review.

If you are still not happy with the decision, you can [ask your MP to refer your complaint to us](#).

2. Contact your Member of Parliament (MP)

By law, we can only look at complaints about the Compensation Scheme and the Adjudicator's Office (and all UK government departments and other public organisations) if an MP refers the complaint to us.

MPs will consider all complaints, no matter how big or small – including problems with a benefit or an immigration issue. You can [find MPs' contact details on the UK Parliament website](#) or call us.

You can fill in our [complaint form](#) and ask your MP to sign it.

3. Complain to the Parliamentary and Health Service Ombudsman

We are here to inspire a better relationship between people and public services – a relationship based on decency, honesty and respect where people are put first. We are an independent organisation and we do not take sides. Our service is free.

You can complain to us if:

- you have reached the end of the organisation's complaints process and you still do not feel the issue has been sorted out
- the organisation has not dealt with your complaint after six months (unless it has explained why it is taking a long time and given you an expected completion date).



There are time limits for making your complaint to us, and these are set out in law. For complaints about the Compensation Scheme, make sure you get it to us within a year of when you became aware of the problem you are complaining about.

Find out more about [how to complain to us](#) and [how we deal with complaints](#).

What to expect when you make a complaint

The [UK Central Government Complaint Standards](#) explain how organisations providing government services should approach complaint handling. They have been co-designed with UK central government departments, other public bodies, and advice and advocacy groups.

The Complaint Standards say organisations should:

- welcome complaints in a positive way
- be thorough and fair
- give fair and accountable responses
- promote a learning culture.

When organisations meet the Complaint Standards you should feel:

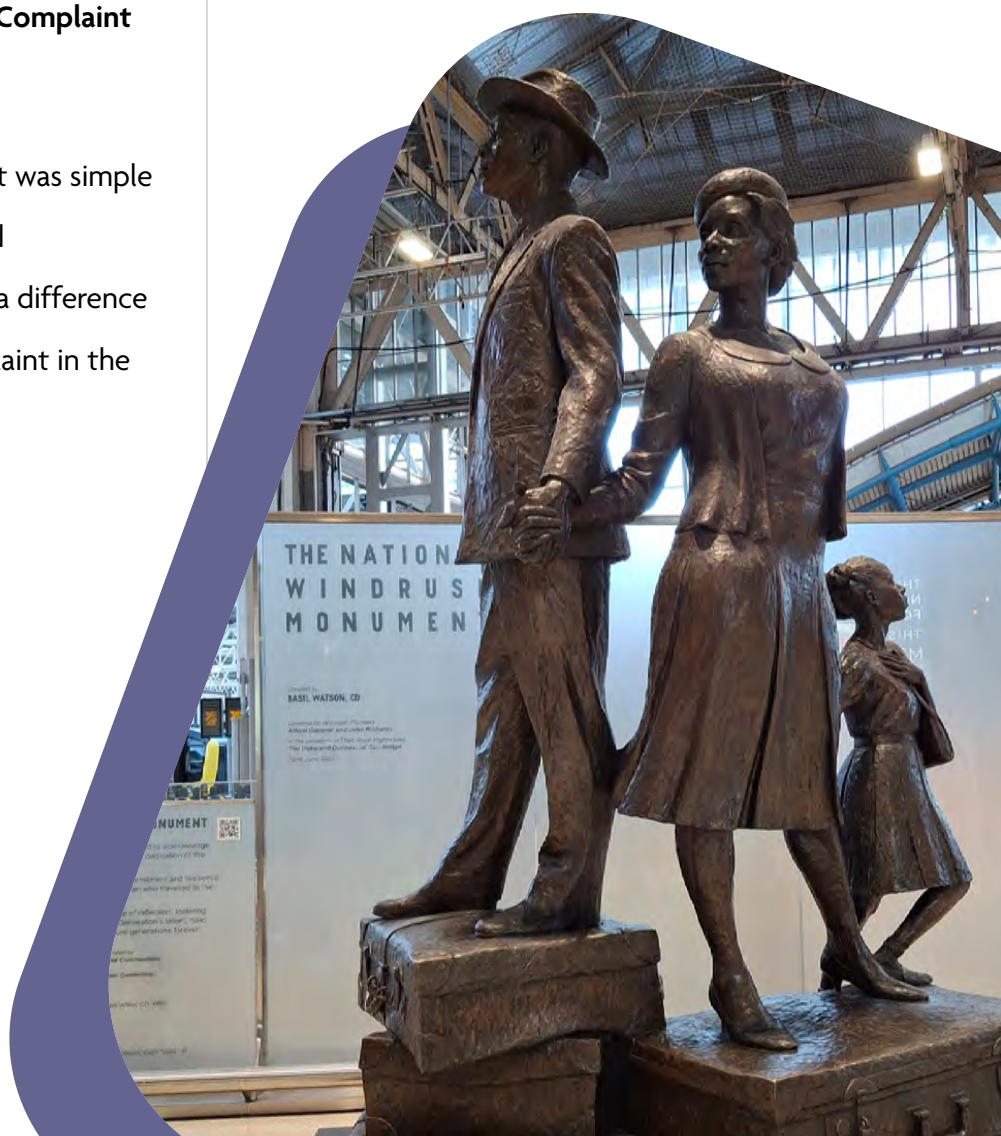
- confident to speak up
- that making your complaint was simple
- listened to and understood
- that your complaint made a difference
- confident to make a complaint in the future.



Where to get more help

If you need help making a complaint, there are organisations that can support you:

- our website has more [information about getting advice and support](#)
- you can talk to [Citizens Advice](#)
- [Windrush Lives](#) is an advocacy group and victim support network. Its main focus is the Compensation Scheme. It can refer people to a network of legal professionals for free support with applying to the scheme.
- the [Windrush National Organisation](#) advocates for the Windrush generation and their descendants who have the right to apply for compensation. It has advocates across the UK.



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