



Home Office



adjudicator's office  
delivering an impartial service for all

**Service Level Agreement  
for  
the provision of  
independent review services  
for  
Home Office,  
Windrush Compensation Scheme  
by  
the Adjudicator's Office**

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## 2. Definitions

References to the Adjudicator should be treated as the Adjudicator and the Adjudicator's Office unless otherwise specified.

## 3. Introduction

- 3.1 This Service Level Agreement (SLA) sets out the arrangements for independent oversight of the Home Office's Windrush Compensation Scheme by the Adjudicator.
- 3.2 The Adjudicator will be accountable to the Home Office for the provision of the services detailed in this agreement.
- 3.3 The Home Office will be responsible for expenditure associated with the provision of the services as agreed.

## 4. The Adjudicator Role and Remit

- 4.1 The Adjudicator is an independent and impartial adjudicator of complaints.
- 4.2 The Adjudicator's Office falls within the same legal entity as the Commissioners of Her Majesty's Revenue and Customs (HMRC). The staff in the Adjudicator's Office are employees of HMRC.
- 4.3 The Adjudicator is an office holder, not an employee nor an officer of HMRC. The Adjudicator is external to HMRC, with the independent personal authority to review complaints.

- 4.4 The Adjudicator's remit relates specifically to the Windrush Compensation Scheme and consists of two elements:
- The Adjudicator will conduct an independent review of decisions made under the Windrush Compensation Scheme.
  - Individuals can also request a review of a complaint about how the Home Office has handled their claim for compensation under the Windrush Compensation Scheme.
- 4.5 The Adjudicator will:
- Bring an independent perspective and assurance to individual case reviews;
  - Conduct the review to a quality standard in line with industry good practice;
  - Consider whether the Home Office has provided a fair and consistent application of the Windrush Compensation Scheme Rules, standards, guidance and codes of practice, alongside the factual evidence of the review;<sup>1</sup> and
  - Share insight to improve the Windrush Compensation Scheme service.
- 4.6 The Adjudicator can consider a request for review or investigate a complaint from:
- The claimant, or an authorised representative; and
  - The legal personal representative of a deceased person's estate.
- 4.7 The Adjudicator can only accept a request for a review after the Home Office has (a) completed a Tier 1 review, (b) the decision has been communicated to the claimant, and (c) the claimant has rejected the award and requested a Tier 2 review.
- 4.8 The Adjudicator can review complaints about how a case has been handled where the complaint has been through internal Home Office complaints processes and their compensation claim is completed.
- 4.9 The Rules relating to Tier 2 Reviews are set out in part 10 of the Windrush Compensation Scheme Rules (2019). The scope of the Home Office Complaints process is set out in the: Complaints guidance for UK Visas and Immigration, Immigration Enforcement and Border Force (2016)<sup>2</sup>. The Home Office defines a complaint as an expression of dissatisfaction with the services provided by the Home Office.

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<sup>1</sup> Documents relating to the Windrush Compensation Scheme can be found at: [www.gov.uk/guidance/windrush-compensation-scheme](http://www.gov.uk/guidance/windrush-compensation-scheme)

<sup>2</sup> [gov.uk/government/uploads/system/uploads/attachment\\_data/file/553890/Complaints\\_Management\\_Guidance\\_September\\_2016.pdf](http://gov.uk/government/uploads/system/uploads/attachment_data/file/553890/Complaints_Management_Guidance_September_2016.pdf)

- 4.10 The Adjudicator can look at applications for review or complaints about:
- Mistakes;
  - Unreasonable delays;
  - Poor or misleading advice;
  - Processes;
  - Whether relevant guidance has been followed;
  - Inappropriate staff behaviour; and
  - The use of discretion.
- 4.11 The Adjudicator cannot look at applications for review or complaints about:
- Decisions on eligibility to claim compensation from the Windrush Compensation Scheme;
  - Decisions made by: the Department for Work and Pensions, HMRC, any relevant National Health Service body or the Driving and Vehicle Licensing Authority (as appropriate) following a notification made to those bodies under paragraph 3.11 of the Windrush Compensation Scheme rules, or otherwise;
  - Government, Departmental or Compensation Scheme Policy;
  - Matters arising from a commercial or employment contract between a customer and the Home Office;
  - Matters arising from a commercial contract between a Service Provider and the Home Office;
  - The role and activity of the Claims Assistance Provider;
  - Matters that have been considered by a court or independent tribunal (on appeal), or matters that they could have considered or could consider;
  - Matters that have been, are being, or should be investigated by the Parliamentary & Health Service Ombudsman;
  - The operation of or decisions made under Home Office staff disciplinary practices and procedures;
  - The handling of requests under both the Freedom of Information Act 2000 and the Data Protection Act 2018 – such issues may be referred to the Information Commissioner;
  - Matters falling into the remit of the Independent Office for Police Conduct or the Police Complaints Commission for Scotland. The Adjudicator's Office cannot look at any payment made (or refusal to make a payment) by the Police.

#### Access to Home Office Staff and Records

- 4.12 The Adjudicator's Office will have access to all relevant staff, information and data required for the consideration of requests for reviews and complaints received.
- 4.13 Where a compensation claimant has requested a review, the arrangements for handling of personal data are covered by the Home Office's procedures and arrangements and are set out in the Windrush Compensation Scheme Privacy Statement.

- 4.14 However, the Adjudicator will have regard to section 23(1) para 6.15 of the Criminal Procedure & Investigations Act 1996, Code of Practice, where the Home Office considers that the information is sensitive.
- 4.15 A separate Memorandum of Understanding, has been produced to cover the arrangements for sharing data between the Home Office and the Adjudicator's Office.
- 4.16 The Adjudicator's Office will use the same security classification standards as the Home Office on data, documents and copies held within their offices.
- 4.17 On rare occasions, it may be necessary for the Home Office to inform the Adjudicator that disclosure of a document would not be in the public interest. Should this situation arise, the Adjudicator will not refer to the document or its contents in any communication with the claimant.

### Sensitive Case Requirements

- 4.18 Where the Adjudicator reaches conclusions which may be especially difficult for the Home Office, they will be identified and discussed through on-going dialogue between the Adjudicator's Office and the Home Office. For example:
- Recommendations that highlight behaviour or actions of an identifiable member of the Home Office staff;
  - Conclusions that involve complex technical issues or controversial legal interpretation; or
  - Recommendations that may prejudice the handling or outcomes of other cases or set unwelcome precedents.

### Adjudicator's Conclusions and Recommendations

- 4.19 The Home Office welcomes feedback and insights from the Adjudicator to identify opportunities to learn lessons, improve complaint handling and its service to claimants.
- 4.20 The Adjudicator may recommend that the Home Office reviews the amount of an award where it has found evidence that:
- The Home Office has not followed processes (rules and guidance) appropriately;
  - The Home Office has used its judgement inappropriately and unreasonably in applying the rules and/or guidance in force.
- 4.21 The Adjudicator will not be entitled to substitute their judgement for a reasonable judgement reached by the Home Office.
- 4.22 The Adjudicator will issue the final report (in each individual case), conclusion and recommendations to the Home Office Deputy Director, Windrush Compensation Scheme Operations. The Adjudicator recommendation will either:

- Uphold or partially uphold the claimant's application for a review or complaint; or
  - Not uphold the claimant's application for review or complaint
- 4.23 The Adjudicator may recommend redress. Any recommendation will be in accordance with the Home Office codes of practice and policies on redress and regulatory payments.
- 4.24 The Adjudicator will notify the claimant of their recommendation, in writing. The Home Office will respond to recommendations made by the Adjudicator relating to the scheme's procedure and practice, setting out either:
- The action the Home Office plans to take to implement the recommendation;
  - The reasons why the Home Office plans to take alternative action and what that action will be; or
  - The reasons why the Home Office plans to take no further action.
- 4.25 The Home Office will notify the Adjudicator's Office when the action has been completed.
- 4.26 If the Home Office does not accept and implement the recommendation of the Adjudicator, it will provide written reasons for its decision. These reasons will be approved by the Home Office Director, UK Visas and Immigration responsible for the operation of the Windrush Compensation Scheme. In exceptional circumstances, it may be appropriate for the case to be escalated to the Home Office Second Permanent Secretary, who may raise the case with the Adjudicator.
- 4.27 The Adjudicator will give feedback and provide reports drawn from insights from individual reviews and complaints as appropriate to provide an opportunity for the Home Office to improve the delivery of the scheme.
- 4.28 The Adjudicator will provide reports quarterly to the Windrush Compensation Scheme Oversight Board.
- 4.29 The Home Office will report back to the Adjudicator through the Windrush Compensation Scheme Oversight Board on the implementation of individual recommendations and lessons learned.

### Home Office Service Standards

- 4.30 The service standards to which the Home Office will work in respect of this Agreement are set out at Annex A.

## 5. Terms of Agreement

This Agreement starts on 25 November 2019 and remains in force until it is terminated as set out in the paragraph headed Termination of Agreement below.

### Variation

- 5.1 This Agreement can be altered at any time by agreement between the Home Office and the Adjudicator to reflect changing priorities and opportunities.
- 5.2 At least 20 working days' notice must be given by either the Home Office or the Adjudicator of any proposals to vary or change the conditions of this Agreement.
- 5.3 All changes must be agreed in writing between the Home Office and the Adjudicator.
- 5.4 The detail of any changes and the timetable for implementing these will be shared and agreed by the Home Office and the Adjudicator's Office.

### Resolution of dispute

- 5.5 With the exception of matters where this Agreement specifically states the decision is one for the Home Office to make, any disputes or disagreements between the Adjudicator and the Home Office relating to this agreement shall initially be discussed by the Adjudicator's Office's Head of Office, and the Home Office Director responsible for Windrush policy, in consultation with the relevant Home Office senior officials.
- 5.6 If agreement cannot be reached, discussions will be held between the Adjudicator and the Home Office Second Permanent Secretary. In the event that an agreement still cannot be reached, the final decision will rest with the Second Permanent Secretary.

### Termination of Agreement

- 5.7 The Home Office or the Adjudicator may terminate this Agreement for operational or other reasons. The relevant party will notify the other of the termination, allowing a minimum 90 calendar days' notice from the date of notification.

### Business Continuity

- 5.8 Where the Adjudicator's Office is unable to fulfil any obligations under this Agreement due to actions or interventions of a third party (or third parties), or due to circumstances beyond the Adjudicator's control, the Agreement will be suspended for the duration of the difficulty.
- 5.9 The Adjudicator's Office Head of Office and the Home Office, Director responsible for Windrush policy will agree alternatives for business continuity for all/any Adjudicator's Office locations, in line with HMRC security and business continuity policies.

## 6. Governance, Access, Resources

- 6.1 This section provides detail around the governance arrangements in place to secure and underpin the independence of the Adjudicator in carrying out their role, and to clearly evidence this to customers, the Home Office and external stakeholders.
- 6.2 The Adjudicator's Office is independent or 'at arm's length' to HMRC and the Home Office, and its decisions are not subject to influence or interference.
- 6.3 The Adjudicator's Office will set the direction, including performance, planning and value for money delivery, of the adjudication services within the scope of the role and remit. These will fit with the requirement that the Adjudicator's Office follows HMRC's procedures and policies on financial propriety and management; personnel; data security, etc.
- 6.4 The Adjudicator will set standards to ensure that quality and independence are maintained throughout the work of the office.
- 6.5 The Adjudicator will publish an annual report covering Adjudicator's Office performance, how the Home Office has handled complaints referred by its customers, including learning from complaints and insights provided. The Adjudicator holds editorial control of the report, and HMRC and the Home Office have no power of veto over the contents.
- 6.6 The Adjudicator may access the Government Legal Department for contentious matters or matters relating to their obligations.
- 6.7 The Adjudicator's Office:
- Will comply with all the relevant HMRC policies, guidelines and processes on finance, personnel and data security, etc.;
  - Will publish customer service standards;
  - Is subject to the same assurance processes, including HMRC Internal Audit, as HMRC offices;
  - Will provide relevant performance data.

### Adjudicator's Office Staffing

- 6.8 The staff in the Adjudicator's Office are HMRC employees.

### Freedom of Information & Data Protection

- 6.9 For the purposes of the Freedom of Information Act 2000 and Data Protection Act 2018 (General Data Protection Regulations from 25 May 2018), the Adjudicator's Office will be seen as part of HMRC and therefore operate under the same jurisdiction but with a separate data sharing MOU agreed with the Home Office. See Annex A.



- 6.10 All requests for any personal data of a complainant under the Freedom of Information Act 2000 or the Data Protection Act 2018 will be recorded. The Adjudicator's Office will work closely with the Home Office FOI and Data Protection teams to ensure the appropriate policies and procedures are followed.
- 6.11 The Adjudicator's Office will consult with the Home Office on all requests made under the FOI Act, which relate to: Home Office guidance, policy and non-personal information. The Adjudicator's Office will consult with the Home Office, where an FOI request includes a request for personal data, where that personal data has either originated from the Home Office or where it involves the personal data of Home Office staff/personnel. The Home Office will consult with the Adjudicator's Office where an FOI, DPA or Subject Access Request concerns Adjudicator's Office activity.

### Complaints from Customers about the Adjudicator's Office

- 6.12 The Adjudicator's Office will provide clear information to customers on how to make a complaint about the way their issues have been handled by the Adjudicator's Office.
- 6.13 Complaints about the services provided by the Adjudicator's Office will be reviewed in accordance with procedures set out at:  
<https://www.gov.uk/guidance/how-to-complain-about-the-adjudicators-office-service-or-decision>

### Adjudicator's Resources and Finances

- 6.14 The Home Office will provide funding required to deliver the independent review function for the Windrush Compensation Scheme.
- 6.15 The funding will be reviewed periodically, with the first review taking place in Q1 2020.
- 6.16 In keeping with HMRC's and the Home Office's commitment to continuous improvement, the Adjudicator's Office will seek to improve business performance in service delivery and value for money.
- 6.17 Any request for additional funding during the year will require a formal business case submitted to the Home Office Deputy Director, Windrush Compensation Scheme Operations.

### Working with the Home Office

- 6.18 The Adjudicator's Office will work directly with the Home Office to provide appropriate management information and feedback to promote a learning culture.

### Working with other stakeholders

#### **Other Government Departments – OGDs:**

- 6.19 Decisions relating to the Windrush Compensation Scheme made by: the DWP, HMRC, any relevant NHS body or the DVLA (as appropriate), do not fall within the remit of the Adjudicator.
- 6.20 The Adjudicator may, nevertheless, consider any relevant legal and administrative frameworks operated by OGDs insofar as it is relevant to the Home Office's handling of a claimant's case.

**The Windrush Compensation Scheme Oversight Board (OB):**


- 6.21 The OB provides advice on the delivery of the scheme and the effectiveness of the policy and operation. It also scrutinises performance of the scheme and how well it is achieving its objectives. It is expected that the Adjudicator will provide regular reports and attend quarterly meetings of the OB, and liaise with the Independent Advisor as necessary.

**Government Legal Services:**

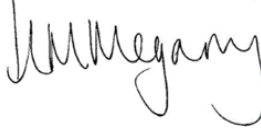
- 6.22 The Adjudicator's Office may access the Government Legal Department for advice on any legal matters or matters relating to their obligations. The Home Office will fund any such legal costs associated with Windrush Compensation Scheme cases.

## 7. Parties to the Agreement


### Home Office

Signed   
Name Glyn Williams  
Title Director General, Border, Immigration and Citizenship System  
Policy and International Group (BICSPI), Home Office  
Date 11 December 2019

### The Adjudicator

Signed   
Name Helen Megarry  
Title the Adjudicator  
Date 11 December 2019

### HM Revenue & Customs

Signed   
Name Ruth Stanier  
Title Director General, Customer Strategy and Tax Design  
Date 11 December 2019

**This Agreement takes effect from 9<sup>th</sup> December 2019**

## Annex A

### **HOME OFFICE Service Standards for working with the Adjudicator**

This annex sets out the service standards applicable to the HOME OFFICE.

THE HOME OFFICE will:

- Ensure in the final departmental response customers are made aware of the next steps in the complaints process, including the service offered by the Adjudicator's Office.

#### **During an investigation by the Adjudicator**

- Provide case reports when requested by the Adjudicator's Office within 15 working days.
- Provide any subsequent information requested by the Adjudicator's Office on open/working cases within 10 working days.
- Discuss any difficulties with the Adjudicator's Office, and involve the Deputy Director, Windrush Compensation Scheme Operations, if agreement cannot be reached.

#### **After a complaint has been closed by the Adjudicator**

- Implement recommendations and notify the Adjudicator's Office where agreed as soon as possible/within 10 working days, unless in exceptional cases, the Adjudicator has been informed that implementation will take longer and told the reason for the delay.
- Respond to suggestions made by the Adjudicator relating to Departmental procedure and practice, setting out either:
  - the action the HOME OFFICE plan to take to implement the suggestion;
  - the reasons why the HOME OFFICE plan to take alternative action and what that action will be; or
  - the reasons why the HOME OFFICE plan to take no further action.