

Windrush And The Hostile Environment



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Presenter

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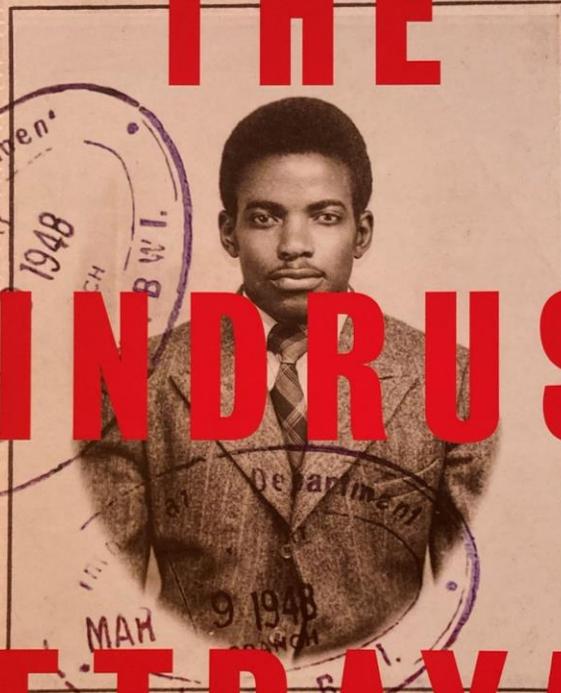


AMELIA GENTLEMAN

THE

WINDRUSH

BETRAYAL



Exposing the
Hostile Environment

'Boldly chronicles the devastating reality of a scandal that
illegalised British citizens.' DAVID LAMMY MP

VISAS

BRITISH SUBJECT



British Nationality Act 1948

Section 1 British nationality by virtue of citizenship

- (1) Every person who under this Act is a citizen of the United Kingdom and Colonies or who under any enactment for the time being in force in any country mentioned in subsection (3) of this section is a citizen of that country shall by virtue of that citizenship have the status of a British subject.

Section 4 Citizenship by birth

- Subject to the provisions of this section, every person born within the United Kingdom and Colonies after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by birth

The Commonwealth Immigrants Act 1962

- ❁ 1) The provisions of this Part of this Act shall have effect for controlling the immigration into the United Kingdom of Commonwealth citizens to whom this section applies.
- ❁ (2) This section applies to any Commonwealth citizen not being—
 - (a) a person born in the United Kingdom ;
 - (b) a person who holds a United Kingdom passport...
 - (c) a person included in the passport of another person who is excepted under paragraph (a) or paragraph (b) of this subsection.

Immigration Act 1971

- ❁ 1) All those who are in this Act expressed to have the right of abode in the United Kingdom shall be free to live in, and to come and go into and from, the United Kingdom without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.
- ❁ (2) Those not having that right may live, work and settle in the United Kingdom by permission and subject to such regulation and control of their entry into, stay in and departure from the United Kingdom as is imposed by this Act;
- ❁ (5) The rules shall be so framed that Commonwealth citizens settled in the United Kingdom at the coming into force of this Act and their wives and children are not, by virtue of anything in the rules, any less free to come into and go from the United Kingdom than if this Act had not been passed.
- ❁ The 1971 Act made no provision for documents to support this right, no clear means of applying, and there was no systematic record within the HO of those ordinarily resident.
- ❁ 3(8) When any question arises under this Act whether or not a person is a British citizen, or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.

The British Nationality Act 1981

- CUKCs who had the right of abode acquired British citizenship automatically at commencement.
- The use of the term 'British subject', as a common description of all Commonwealth citizens, ceased and the term 'Commonwealth citizen' alone applied.
- Birth in the UK was no longer an automatic means to British citizenship

The Hostile Environment

- Immigration, Asylum and Nationality Act 2006
- Legal Aid, Sentencing and Punishment of Offenders Act 2012
- HC 194 Statement of Changes
- Immigration Act 2014
- The National Health Service (Charges to Overseas Visitors) Regulations 2015
- Immigration Act 2016
- Operation Nexus

Windrush Scheme casework guidance

Version 4.0

Guidance for decision makers considering cases under the Windrush Scheme.

Eligibility

- A claim for compensation will be accepted from:
- A Commonwealth citizen who was either settled in the UK before 1 January 1973 and has been continuously resident in the UK since their arrival or has the Right of Abode.
- A Commonwealth citizen who was settled in the UK before 1 January 1973, whose settled status has lapsed because they left the UK for a period of more than 2 years, and who is now lawfully in the UK and who has strong ties to the UK.
- A child of a Commonwealth citizen parent where the child was born in the UK or arrived in the UK before the age of 18 years and has been continuously resident in the UK since their birth or arrival, and the parent was settled before 1 January 1973 or has the Right of Abode (or met these criteria but is now a British Citizen).

Eligibility

- A person of any nationality who arrived in the UK before or on 31 December 1988 and who has or had indefinite leave to remain who is now lawfully in the UK or a British Citizen.
- A grandchild of a Commonwealth citizen, where the parent was born in the UK or arrived in the UK before the age of 18 years and has been continuously resident in the UK since their birth or arrival, and the grandparent was settled before 1 January 1973 or has the Right of Abode (or met these criteria but is now a British Citizen).
- A Commonwealth citizen who was settled in the UK before 1 January 1973 whose settled status has lapsed [because they left the UK for a period of more than 2 years] and who left the UK, either because: they were removed; voluntarily left but were facing pending enforcement action; voluntarily left but were unable to return to the UK (due to a wrong immigration decision); or voluntarily left due to immigration status issues in the UK.
- The estate of a person who would have been eligible.
- A third party is eligible where there has been an impact on family and private life due to the difficulties experienced with immigration status and/or significant direct financial losses.

The Adjudicator's Office Review

- We can look at your request if:
 - you've received a Home Office internal review of their decision on your entitlement to compensation
 - your complaint has completed all stages of the Home Office's complaints process
 - The Adjudicator's Office can normally only accept your request up to 2 months after the Home Office has sent you their review or complaint decision.

What the Adjudicator's Office can look at

- Mistakes
- Unreasonable delays
- Poor or misleading advice
- Processes
- Whether relevant guidance has been followed
- Inappropriate staff behaviour and
- The use of discretion

What the Adjudicator's Office cannot look at

- ❖ Decisions on eligibility to claim compensation from the Windrush Compensation Scheme
- ❖ Decisions relating to the Windrush Compensation Scheme made by the Department for Work and Pensions, HMRC, any relevant National Health Service body or the Driver and Vehicle Licensing Agency
- ❖ 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 or matters that they could have 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

Drama

Sitting in Limbo

A shocking drama inspired by the Windrush scandal. After 50 years in the UK, Anthony Bryan is wrongfully detained by the Home Office and threatened with deportation.

1 Episode Available



Start Watching



Any Questions?

Thanks for watching!

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