



Windrush Scheme

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Naila Khan



You may have heard on the news, social media or through friends that people who arrived in the UK many years ago and do not have documentation confirming their immigration status have

faced difficulties in proving their right to work, to rent property and to access benefits and services to which they are entitled.

The Government has since apologised to people in this position and has made a commitment to help them get the documents they need. On 16 April 2018, the Home Secretary established a Taskforce to make immediate arrangements to help those who needed it. This included setting up a helpline to get in touch with the Home Office. The Windrush Scheme is the next step in providing help and support.

A separate Scheme will make it easier for people to access it and to understand what is on offer. Those applying under this Scheme will benefit from the services of the Taskforce which will help people to navigate the immigration system and will continue to take a sympathetic and proactive approach when resolving applications. The Windrush Scheme does not cover applications for a British passport. British citizens must pay for a passport and it would not be fair to existing British citizens to provide a free passport to those applying for British Citizenship under the Windrush Scheme.

How to Apply

An application under the Windrush Scheme must be made on the relevant form on GOV.UK - the "Windrush Scheme application (UK)" for applicants living in the UK or the "Windrush Scheme application (Overseas)" for applicants living outside the UK.

Application fee

There is no fee for an application under the Windrush Scheme.



Photograph and fingerprints (biometrics)

Applicants under the Windrush Scheme are required to provide their biometrics (photograph of face and fingerprints) unless they are exempt from that requirement. There is no fee for this.

How applications will be considered

An application under the Windrush Scheme will be considered under existing law and policy, but if policy as set out in this document differs from existing policy this document will be applied. The Taskforce set up to consider applications under the Windrush Scheme will consider the application in the round based on all the available evidence, including from Home Office records and those of other government departments.

No information provided in relation to an application under the Windrush Scheme will be passed on to Immigration Enforcement. The Taskforce will not consider any applications which fall outside the scope of the Windrush Scheme as set out in this document.

What applications will be considered under the Windrush Scheme

A person in the UK

A Commonwealth citizen* who was settled in the UK before 1 January 1973 and has been continuously resident in the UK since their arrival.



The Taskforce will consider whether the applicant is already a British citizen and, if they are, they will be given a document confirming that.

If the applicant is not British, and has said on the application that they want British Citizenship, they will be considered for naturalisation under the British Nationality Act 1981. The applicant will be taken to have sufficient knowledge of English and of life in the UK and so the requirement to pass the Life in the UK test will not apply to them. They will also not have to attend a citizenship ceremony, unless they want to. The applicant will have to meet the residence requirements for citizenship and the good character requirement. If the applicant qualifies for British Citizenship, they will be given a certificate of naturalisation.

If the applicant does not apply for British Citizenship, or does not qualify for naturalisation, the Taskforce will consider whether they have the Right of Abode and, if so, they will be given a Certificate of Entitlement to the Right of Abode.

If not, the Taskforce will consider whether they are entitled to remain in the UK and, if so, they will be given a biometric document confirming their settled status (NTL – No Time Limit).

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 is now lawfully in the UK and has close and continuing ties with the UK

If the applicant is lawfully in the UK and not liable to deportation on grounds of criminality or other non-conducive behaviour and has close and continuing ties with the UK they will be given indefinite leave to remain.



A child of a Commonwealth citizen* who was settled in the UK before 1 January 1973, where the child was born in the UK or arrived in the UK before the age of 18 and has been continuously resident in the UK since their arrival.

The Taskforce will consider whether the applicant is already a British citizen and if they are they will be given a document confirming that.

If they are not, and the applicant has said on the application that they want British Citizenship, the Taskforce will consider whether the applicant has the right to register as a British citizen under the British Nationality Act 1981. If they do, they will be given a certificate of registration.

If they are not entitled to register as British, they will be considered for naturalisation under the British Nationality Act 1981. The applicant will be taken to have sufficient knowledge of English and of life in the UK and so the requirement to pass the Life in the UK test will not apply to them. They will also not have to attend a citizenship ceremony, unless they want to. The applicant will have to meet the residence requirements for Citizenship and the good character requirement. If the applicant qualifies for British Citizenship, they will be given a certificate of naturalisation.

If the applicant does not apply for British Citizenship, or does not qualify for naturalisation, the Taskforce will consider whether they have the Right of Abode and, if so, they will be given a Certificate of Entitlement to the Right of Abode.

If not, the Taskforce will consider whether they are settled in the UK and, if so, they will be given a biometric document confirming their settled status (NTL – No Time Limit).



If not, if they are lawfully in the UK and are not liable to deportation on grounds of criminality or other non-conductive behaviour. they will be given indefinite leave to remain. A person of any nationality, who arrived in the UK before 31 December 1988 and is lawfully settled in the UK.

The Taskforce will consider whether the applicant is already a British citizen and, if they are, they will be given a document confirming that. • If the applicant is not British, the Taskforce will consider whether they have the Right of Abode and if so they will be given a Certificate of Entitlement to the Right of Abode.

If not, the Taskforce will consider whether they are settled in the UK and, if so, they will be given a biometric document confirming their settled status (NTL – No Time Limit).

Right of Abode is explained here –

<https://www.gov.uk/government/publications/right-of-abode-nationality-policyguidance>

Registration as a British citizen is explained here –

<https://www.gov.uk/government/publications/children-nationality-policyguidance>

Residence requirements for naturalisation are explained here (on pages 13 to 18)

<https://www.gov.uk/government/publications/naturalisation-as-a-britishcitizen-by-discretion-nationality-policy-guidance>

Good character requirement for naturalisation/registration is explained here -

<https://www.gov.uk/government/publications/good-character-nationality-policyguidance>



A person outside the UK A Commonwealth citizen* who was settled in the UK before 1 January 1973 but who does not have a document confirming their Right of Abode or settled status, or whose settled status has lapsed because they left the UK for a period of more than 2 years.

The Taskforce will consider whether the applicant has the right of Abode and, if so, they will be given a certificate of entitlement to the Right of Abode.

If not, the taskforce will consider whether the applicant meets the requirements for a Returning Resident visa under the Immigration Rules. If so, and the applicant states on the application that they want to return to the UK permanently, they will be granted a Returning Resident Visa. On returning to the UK a Returning Resident can apply to naturalise as a British citizen only after they have been resident in the UK for a further 5 years (3 years if they are the spouse of a British citizen).

If the applicant qualifies as a Returning Resident but states on the application that they want only to visit the UK, the taskforce will consider whether they also meet the requirements for a visit visa under the Immigration Rules and, if so, they will be granted a 10-year multiple entry visit visa which will allow them to visit the UK for up to 6 months at a time within that 10-year period. 5 Returning Resident requirements are explained here – Visit visa requirements are explained here – <https://www.gov.uk/government/publications/visit-guidance>

Meaning of “Commonwealth” *

*For the Windrush Scheme, citizens of the Commonwealth countries mean citizens of the following: Anguilla The Bahamas Belize British Antarctic Territory Canada Dominica The Gambia Grenada India Kiribati Malawi Mauritius Nauru Pakistan Saint Helena, Ascension and Tristan da Cunha Seychelles Solomon Islands St Kitts and Nevis Swaziland Turks and Caicos Islands Tanzania Zambia Antigua and Barbuda Bangladesh Bermuda British Indian Ocean Territory Cayman Islands Falkland Islands Ghana Guyana Jamaica Lesotho Maldives Monserrat New

Zealand Papua New Guinea Saint Lucia Sierra Leone South Georgia and the South Sandwich Islands St Vincent and The Grenadines Tonga Tuvalu Vanuatu Zimbabwe Australia Barbados Botswana Brunei Cyprus (excluding the Sovereign base area) Fiji Gibraltar Hong Kong Kenya Malaysia Malta Namibia Nigeria Pitcairn, Henderson, Ducie and Oeno Islands Samoa Singapore South Africa Sri Lanka Trinidad and Tobago Uganda Virgin Islands

Would you like further advice?

For the best expert legal advice and outcome on your immigration application contact Buckingham Legal Associates on 0203 006 2742 or contact us online at www.buckslegal.co.uk.



Naila Khan is an experienced Senior Immigration Advocate. She regularly advises clients on complex immigration issues.

If you would like immigration advice please contact us!