

Windrush generation put the Home Office in the dock

The Windrush generation and their descendants are still being treated as immigrants despite being British, and so need protection via a Windrush Act, a judicial review appeal hearing will be told next Tuesday.

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Anthony Brown, who arrived from Jamaica with his parents as a 6-year-old boy, is appealing the decision to refuse his request for a judicial review of the Windrush Citizenship and Compensation schemes if they are fit for purpose. The oral hearing will be at the Royal Courts of Justice, London, on Tuesday 8th February.

Mr Brown argues that the Government's [Windrush Scheme](#), meant to right the injustice done to people from former British colonies who were threatened with deportation, is still treating members of the Windrush generation and their descendants as foreigners who must prove they have a right to citizenship. He says that the new [Nationality and Borders Bill](#), currently going through Parliament, will make the situation worse by allowing the Government to remove citizenship from people without their knowledge in a way that discriminates against ethnic minorities or people with dual nationalities. The only way to right this injustice, he will argue, is by passing a 'Windrush Act' that explicitly protects his rights and those of people like him.

Nearly half a million people from the Caribbean arrived in the UK after the second world war when the British Government invited them to travel to Britain to help rebuild the 'mother country'.

For many years this 'Windrush Generation' and their children required no specific documents to prove their right to live and work in the UK – they were citizens by right because they came from British colonies. The 1971 Immigration Act, introduced following the independence of former colonies, gave Commonwealth citizens who were living in the UK at the time Indefinite Leave to Remain. But the Home Office failed to keep a record of who was granted leave to remain or issue any paperwork to confirm their status, and in 2010 destroyed the landing cards of Windrush Generation citizens.

This led to many Windrush people being asked to prove their citizenship or being threatened with deportation, often losing their jobs, homes and entitlement to NHS care in the process. Mr Brown was threatened with deportation because he had spent more than two years outside the UK. Following the Immigration Act 2014, part of the Home Office's 'hostile environment' policy, more and more Windrush people faced deportation.

[Wendy Williams' Lessons Learned Review of the Windrush Scandal](#) strongly criticised the UK Government and said that it should recognise that the Windrush Generation and their descendants are British citizens who had been harmed by its actions. The Government apologised and promised to make amends, but it has failed to do so, according to Mr Brown.

The Government is still demanding that people prove they are British under immigration law, and then 'naturalising' them as British citizens if they succeed. Mr Brown himself has now been 'naturalised'.

"How can I be naturalised British when I have been a British citizen all along," said Mr Brown. "They are treating me as a foreigner when I am not one, trying to erase the institutional memory that I was British, challenging my very identity."

"A lot of people have been refused citizenship or are being left in limbo because the Government has been applying immigration law to British people, which is irrational. The Home Secretary told Parliament that the Windrush people were British in all but legal status, but the Windrush Scheme is a naturalisation scheme, and you only naturalise foreigners, it makes no sense," argues Mr Brown, a lawyer and co-founder of Windrush Defenders, which supports those fighting for their citizenship to be recognised and for compensation.

"What the Government needs to do is pass a Windrush Act, new legislation to create a registration scheme, so Windrush people could just register as British citizens rather than having to jump through all the hoops demanded by the immigration act."

[Conservative peer, Baroness Warsi, speaking against the new Nationality and Borders bill in the House of Lords](#), criticised "the appalling circumstances in which the Windrush generation and others – who were by right British - were treated like outsiders, foreigners, aliens."

"When the Windrush generation answered the call for workers and came to this country, they did so as citizens. It was a right, one established through our colonial history, through strife, blood, sweat and those who even gave their lives. By formally taking a British passport, they were merely formalising a right, not having a privilege bestowed upon them"

She asked for the removal of Clause 9 of the Bill, which allows the Home Secretary to remove British citizenship from someone who has dual nationality, without even informing them in certain circumstances, calling it discriminatory because around 40% of ethnic minority people have dual citizenship.

"The fact that the Government is targeting people with dual nationality and still seeing British citizenship as a privilege that can be taken away from those who are already British, is deeply worrying".

“Many people who became dual nationals after Brexit could also be at risk” Mr Brown said.

Mr Brown’s application for a Judicial Review was turned down by the court last year on procedural grounds, the Home Secretary arguing that he does not have ‘the standing’ to bring a Judicial Review, because he is now a British citizen and so cannot ask for something he already has. She argued that these are matters for Parliament to decide. Mr Brown is appealing against this decision at the hearing next week.

“This case is really about human rights: if you say to someone that they were a foreigner, you are dealing with their identity, which is a human right.” It is the Courts who determine breaches of human rights. Mr Brown said.

Mr Brown’s Judicial Review is also demanding a change to the Windrush Compensation Scheme, which was set up to compensate Windrush people for loss and damage caused by the Government’s actions.

The Home Office estimates around 15000 were affected but only 2700 had applied for compensation as of January 2022, more than two years after the scheme’s introduction, and only 940 have been paid anything.

“The compensation scheme is not fit for purpose on that basis alone. People are dying before they receive compensation,” said Mr Brown. “It is too complicated, so people are running about in circles trying to find the evidence demanded and there is a lack of proper calculation of pensions and other problems. We believe that once people have their citizenship restored by the Windrush Scheme, they should be given a basic £10,000 in reparation for having their Citizenship taken away in the first place, which would alleviate a lot of the stresses they have been under.”

Anthony Brown and his supporters are asking for donations to help to fund his case. Donations can be made via their [gofundme](#) page.

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For more information contact Roland Houslin on thewindrushact@wdlegal.co.uk or 07999178111

Background information

[Anthony Brown LL.B](#) came to the UK in 1967 from Jamaica aged 6 with his mother and 4 siblings to join his father, who was working as a civil engineer after studying here. Both Anthony and his father lost their Citizenship of the United Kingdom and Colonies in 1962

when parliament passed the Jamaica Independence Act 1962. The Act disproportionately discriminates against ethnic minorities from former British colonies who were settled in the UK. Anthony was subsequently threatened with deportation in 1983 when he fell foul of the Immigration Act 1971 for living outside the UK for more than two years.

Mr Brown's judicial review is supported by [Windrush Defenders Legal C.I.C.](#), which he cofounded. It campaigns for law reform and supports Windrush Scheme applicants to confirm their legal status and claim Windrush compensation.

The judicial review is also supported by [Preston Windrush Generation and Descendants UK](#), which provides a voice for the descendants of the Windrush Generation, campaigning and providing support and advocacy nationally for those who are victims of the ongoing Windrush Scandal.