



Home Office

Kevin Foster MP  
Minister for Future Borders and  
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Stuart C McDonald MP  
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20 July 2020

Dear Stuart,

### Windrush Compensation Scheme

At Committee stage of the Windrush Compensation Scheme (Expenditure) Bill on 24 March I committed to speak to Martin Forde QC about the standard of proof individuals must meet in order to qualify for compensation under the scheme. This followed concerns raised by you, and others, that some elements of the scheme – those for actual awards - require the criminal standard of proof to be met.

I have now had the opportunity to speak with Martin about this. We agreed it is right the scheme operates broadly, on the balance of probabilities. We do ask claimants to provide as much information and evidence as they can, so the best assessment of their claim and personal circumstances can be made. Caseworkers work closely with claimants to support them where there are gaps in their evidence, contacting other government departments such as HMRC or DWP on their behalf. This ensures we support claimants to get the maximum compensation to which they are entitled and is an approach Martin rightly commends.

In testament to this, several individuals have been awarded compensation for elements they did not originally claim for, which demonstrates our commitment to working closely with claimants to ensure they receive the full compensation to which they are entitled.

On your point of concern specifically, Martin remains of the view that, consistent with case law, where actual losses are claimed it is right cogent and credible evidence should be provided. This is to ensure we can seek an appropriate level of assurance these losses were incurred, in the interests of properly managing taxpayer's money.

However, we agreed the language used to describe the standard of proof required for these categories should be amended so it is clear to claimants we are not expecting them to meet the criminal standard. Instead, we just require more cogent and credible evidence from them than we would for a general award, to adequately evidence the actual losses incurred. This is no more onerous than the approach adopted by the Courts. We also agreed caseworkers should be sympathetic where this is problematic due to the passing of time or the claimant's personal circumstances. I have therefore instructed my officials to review this, and to work with Martin to come up with a more appropriate form of words.

Martin is also very happy to speak with you about this directly, should you wish, and thank you again for the constructive approach you took during Report Stage of the bill.

I am copying this letter to others who spoke at Committee stage and will place a copy of this letter in the library of the House.

With my very best wishes.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Foster', with a large flourish above the name and a period at the end.

**Kevin Foster MP**  
**Minister for Future Borders and Immigration**