



Darren Tierney  
Director General  
Propriety & Constitution Group  
Cabinet Office

Sir Matthew Rycroft KCMG CBE  
Permanent Secretary  
Home Office

17 January 2024

Dear Matthew,

The Safety of Rwanda (Asylum and Immigration) Bill is currently making its way through Parliament. Clause 5 of the Bill deals with interim measures of the European Court of Human Rights, and makes clear that it is for a Minister of the Crown, and only a Minister of the Crown, to decide whether the United Kingdom will comply with such an interim measure. If the Bill gains Royal Assent, this provision will become domestic law.

The overall effect of the Bill will depend on whether it is amended during its passage in Parliament. If it remains in its current form following Royal Assent, and in view of the interest in this issue, guidance would be issued to civil servants to set out the implications of Clause 5 for Ministers and civil servants.

Having consulted with colleagues, I am providing below draft guidance to the Civil Service as follows:

*As a matter of UK law, the decision as to whether to comply with a Rule 39 indication is a decision for a Minister of the Crown. Parliament has legislated to grant Ministers this discretion. The implications of such a decision in respect of the UK's international obligations are a matter for Ministers. In the event that the Minister, having received policy, operational and legal advice on the specific facts of that case, decides not to comply with a Rule 39 indication, it is the responsibility of civil servants - operating under the Civil Service Code - to implement that decision. This applies to all civil servants.*

I will write again with final guidance when the Bill becomes law.

Yours sincerely,

**Darren Tierney**

**Director General, Propriety & Constitution Group**

Copied to: Heads of Departments.