Sir Matthew Rycroft KCMG CBE
Permanent Secretary
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Cabinet Secretary [Via Email]

17 January 2024

Dear Simon,

Thank you to Darren Tierney for his letter of today in which he sets out proposed guidance to be issued to the Civil Service on the duty of Civil Servants following a Rule 39 interim measure of the ECHR, where a Minister of the Crown has directed a relocation to take place pursuant to provisions in the Illegal Migration Act or the Safety of Rwanda Bill.

Amongst other things, his letter states that 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.

Acknowledging that the Bill is going through Parliament and there may be changes, I can confirm that we shall issue guidance to those involved in removals to Rwanda, and revised guidance to caseworkers. This will amend the existing Home Office guidance in relation to removals under the Illegal Migration Act and Safety of Rwanda Bill that says 'where you have been notified that a R39 indication has been made you must defer removal immediately.' The guidance, which may be amended as the process is developed, will state that:

"Where a Rule 39 measure is indicated by the Strasbourg Court, the Home Office case worker must immediately refer the case for a ministerial decision on whether or not to proceed with removal. This must be done without delay, irrespective of when the Strasbourg Court has issued an interim measure. Given the nature of removal flights, officials should be available to advise ministers at short notice and during evenings and weekends.

Home Office officials shall proceed with removal if the relevant Minister approves that course of action."

Yours sincerely,

Sir Matthew Rycroft KCMG CBE

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