



Darren Tierney  
Director General  
Propriety & Constitution Group  
Cabinet Office

Sir Matthew Rycroft KCMG CBE  
Permanent Secretary Home  
Office

29 April 2024

Dear Matthew,

I wrote to you on 17 January 2024, during the passage of the Safety of Rwanda (Asylum and Immigration) Bill, to provide draft guidance to the Civil Service about the implications of what was then Clause 5 of the Bill, which dealt with interim measures of the European Court of Human Rights.

The Bill has now received Royal Assent. Section 5 of the Safety of Rwanda (Asylum and Immigration) Act confirms 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 an interim measure of the European Court of Human Rights.

I am therefore writing to confirm the guidance.

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. The sovereign Parliament has legislated to grant Ministers this discretion. 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 to implement that decision. This applies to all civil servants.

The implications of such a decision in respect of the UK's international obligations are a matter for Ministers, exercising the discretion which has been granted to them by Parliament.

In implementing the decision, civil servants would be operating in accordance with the Civil Service Code, including the obligation not to frustrate the implementation of policies once decisions are taken. They would be operating in compliance with the law, which is the law enacted by Parliament under which the Minister's specifically recognised and confirmed discretion would be exercised. The Code does not require or enable civil servants to decide not to do so, and so to frustrate the will of Parliament and Ministers, on the basis that non-compliance with a Rule 39 indication would or might be a breach of Article 34 ECHR.

Accordingly, in the present context, neither the Civil Service Code, nor the broader constitutional function of the impartial Civil Service, require or enable the Civil Service to decline to implement such a decision by Ministers.

I understand that you will reflect this position in your internal guidance to officials involved in removals to Rwanda, and revised guidance to caseworkers.

Yours sincerely,

**Darren Tierney**  
**Director General, Propriety & Constitution Group**

Copied to: Heads of Departments