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All Peers
House of Lords
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By Email Only

2 March 2022

To: All Peers

My Lords,

**Nationality and Borders Bill: Lords Committee Stage 8th February 2022-
Overseas Asylum Processing**

I am grateful to you all for the detailed debate on the Nationality and Borders Bill on 8th February 2022. During our debate, I offered to write to you on overseas asylum processing, also referred to as “offshoring”.

The noble Lords asked various questions regarding how an overseas asylum processing arrangement might work in practice. These included: clarification of the vulnerable cohorts exempt from being removed for processing overseas, including children; whether families would be split up; the total number of individuals who may be removed; and how the model would work including whether those who are granted refugee status may return to the UK.

I made clear in committee stage that the Bill measures are not new and do not alone enable overseas asylum processing. For eighteen years it has been possible under UK law to remove individuals from the UK whilst their asylum claim is pending if a certificate is issued under Schedule 3 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

However, the policy of overseas asylum processing, which this legislation will support, is novel and I understand the attention it has garnered. We are currently in discussions with a number of likeminded partners, and I cannot at this time share any information which could prejudice these sensitive discussions.

I can, however, assure my noble lords that this Government is committed to acting in accordance with our international obligations. We will not seek to transfer anyone overseas where to do so would breach the UK's obligations under the Refugee Convention or the European Convention on Human Rights, for example. Even where we determine a country is generally safe, vulnerabilities will be taken into careful consideration, and any oral or written representations from the individual will be considered ahead of any removal to a safe third country.

At Report Stage in the Commons, Minister Pursglove was clear unaccompanied asylum-seeking children would not be transferred overseas for their claims to be processed. This is in accordance with our commitment to safeguard and promote the welfare of the child as expressed in section 55 of the Borders, Citizenship and Immigration Act 2009. Given that any scheme of exemptions will partly depend on the particular circumstances of the countries we are working with I am unable to comment further on specific exemptions at this time. More importantly, being definitive about exemptions from the policy at this early stage is likely to hamper its potential to be effective and also incentivise people smugglers to target the most vulnerable in hopes of keeping their operations viable. This policy, alongside a suite of other critical measures set out in the New Plan for Immigration, is designed to disincentivise unwanted and dangerous behaviours such as small boat crossings. It is essential we do not curtail these efforts by eroding the policy before it has even begun.

Additionally I would like to take this opportunity to reflect the Home Secretary's comments in the commons on Visa Penalties in the Commons. Britain is stepping up to play its part in responding to the terrible situation on the ground in Ukraine and taking action to pressure the Putin regime through the toughest possible sanctions.

I intend to bring forward a report stage amendment to allow visa penalties to be extended to countries that have taken steps to threaten international peace and security; have led, or are likely to lead, to armed conflict; or breach international humanitarian law. I will write to you with further details in due course.

I hope this provides clarification and I look forward to continuing to work with you all to deliver this important legislation and further discussing these critical issues as the Bill moves through Parliament.

A copy of this letter will be placed in the libraries of both Houses.



**Baroness Williams of Trafford
Minister of State**