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Dear Lord Kessler,

Nationality and Borders Bill: Lords Committee Stage 10th February 2022- Wasted Cost Orders

I am grateful to you for the detailed debate on the Nationality and Borders Bill on the 10th February 2022. Our debate covered a variety of topics Waste to Cost orders. During the course of that debate, you asked how many of the cases dealt with by the immigration tribunal over the last 12 months fall within the category of unreasonable behaviour, for which the Government would expect these costs orders measures to be activated, and I committed to respond in writing.

Case law provides examples of poor conduct and behaviours which have been considered unreasonable (or improper or negligent) and which have resulted in a costs order, including failure to appear and non-compliance with tribunal directions. It is not, however, possible to say how many cases dealt with by the Tribunal within this period fell within the category of unreasonable behaviour. This is because we do not hold data on the number of cases where behaviour or circumstances *could* have been considered unreasonable, but where no costs order was sought, or considered by the tribunal of its own initiative.

In addition, the decision whether to grant any costs order under Clause 77 in a particular case will remain at the Tribunal's complete discretion. Therefore, it is not possible to indicate the number of cases in which costs orders would be expected to be made under Clause 77. Instead, the Clause is designed to encourage more regular consideration of whether a costs order is appropriate. This should reduce unreasonable behaviour, and thereby contribute to an efficient and effective immigration and asylum system.

I hope this provides clarification and I look forward to continuing to work with you 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.

Sharpe of Epsom.

LORD SHARPE OF EPSOM OBE

The Lord Rosser
House of Lords