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House of Lords  
London  
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The Lord Murray of Blidworth  
Parliamentary Under Secretary of State  
for Migration and Borders

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3 July 2023

Dear Lord Etherton,

### **ILLEGAL MIGRATION BILL: HOUSE OF LORDS COMMITTEE STAGE**

I am writing to follow up the debate in the Lords on day four of Committee (Official Report, 12 June, column 1775) in relation to your query about the operation of the Bill and whether it would derogate from the Supreme Court in HJ (Iran).

HJ (Iran) is the lead case law around asylum claims based on the grounds of sexual orientation. The central conclusion reached by the Supreme Court is that a person should not be expected or required to conceal their identity in order to avoid persecution.

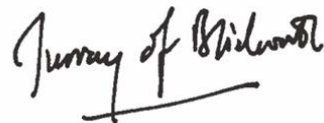
As stated in the debate, the HJ caselaw relates to a different regime to that which is being proposed by this Bill. However, the principles of this caselaw will still be relevant to the decision-making process that will take place under the Bill provisions. If a person meets the conditions of the duty to remove, and raises an asylum or HR claim against their country of origin, this will be declared inadmissible and they will be removable to a safe third country. If they believe they would be at risk of serious harm in that country on the basis of their sexual orientation, they can raise a serious harm suspensive claim. If the open expression of a person's sexual orientation would prevent them from living in a specified third country without being at real risk of serious and irreversible harm they would meet the threshold for a serious harm suspensive claim as outlined in clause 39 of the Bill and the principles enunciated by the Supreme Court in the case of HJ (Iran) would be upheld. If the person is a national of a country listed under section 80AA of the Nationality, Immigration and Asylum Act 2002 as added by this Bill, they will be removable to that country. However, if they believe they have exceptional circumstances why they should not be removed to that country on the basis of their sexual orientation, they can raise this claim for consideration. If it is accepted that the open expressions of a person's sexual orientation would amount to exceptional

circumstances, they would not be removed to that country and would be removable to a safe third country.

I cannot speculate on hypothetical cases based on sexual orientation. Whether it will be appropriate to remove an individual either back to their country of origin or a safe third country will depend upon the facts of that person's particular circumstances, and the country situation in the proposed country of removal. The Government is confident that appropriate safeguards are built into the processes that will take place under the Bill provisions.

I am copying this letter to Baroness Ludford, Lord Hope of Craighead, Baroness Kennedy of The Shaws, Lord Coaker, Lord Paddick, Lord Carlile of Berriew, Lord Cashman, Baroness Chakrabati. I will also place a copy of this letter in the library of the House.

Yours sincerely,

A handwritten signature in black ink, reading "Murray of Blidworth". The signature is written in a cursive style with a horizontal line underneath.

**The Lord Murray of Blidworth  
Parliamentary Under Secretary of State  
for Migration and Borders**