



Lord Bellamy KC
Parliamentary Under-Secretary of State
for Justice

Lord Jackson of Peterborough
Lord McNally
Lord Farmer
Lord Ponsonby of Shulbrede

MoJ Ref: SUB114685

7 May 2024

Dear Peers,

REGARDING FOREIGN NATIONAL OFFENDERS IN PRISONS IN ENGLAND AND WALES

As promised, I am writing to you further to our debate on 27 April regarding foreign national offenders (FNOs) in our prisons to provide additional detail on the questions and comments raised throughout the debate. I am grateful to the noble Lord, Lord Jackson, for tabling the debate on this issue, and to all of the noble Lords in attendance for their contributions.

I thank Lord Jackson and Lord McNally for their points raised on the matter of Albanian organised crime and I am grateful for their acknowledgement of the good work being done to address this. We have successfully begun to transfer prisoners to Albania under the new agreement and a significant number of further cases have already been referred to Albania's courts for consideration. We are working closely with the Albanian government to ensure that these cases can be processed as quickly as possible, freeing up space in our prisons and reducing costs to the British taxpayer. On the matter of overall removals, there were 3,926 FNOs returned from the UK in the year ending December 2023, with Albanian nationals representing one third (37%, 1,467 total) of all FNO returns over that period, demonstrating the impact of our increased efforts.

Lord Jackson raised the matter of our engagement with Jamaica on prisoner transfers. Jamaican nationals are currently the fifth most common nationality in the FNO prison population, representing 4% of the total FNO population. We have a long history of cooperation and engagement with Jamaica on crime and justice, including on matters of returning foreign offenders. As I raised in the chamber, a prisoner transfer agreement would require mutual political will between our two countries to do so and Jamaica has been unwilling to sign an agreement to-date. Nonetheless, our relationship with Jamaica remains one of mutual respect and co-operation.

Lord Jackson also enquired after updates on the newly agreed prisoner transfer agreement between the UK and the Philippines. The text of this proposed agreement was laid before Parliament in January 2024 and is to be considered by the International Agreements Committee. I would like to reiterate that prisoner transfer agreements can be used to allow the return of British prisoners to enable them to be closer to home and family with easier access to appropriate medical support and other services that will better meet their welfare and rehabilitation needs. Our agreement with the Philippines has been pursued with this ambition in mind.

Regarding the wider points on our overall strategy for the pursuit and implementation of prisoner transfer agreements with partner countries, I am happy to provide more information. As the Lords rightly noted, we currently have over 100 agreements with partner countries, maximising our ability to have prisoners serve their custodial sentences in their home countries. We are working to improve bilateral transfers with EU partners, including through exploring mutually beneficial bilateral agreements with priority EU Member States to make prisoner transfers easier and quicker to complete. We are in the process of concluding a prisoner transfer agreement with Italy, which we anticipate will be signed in the coming months.

Lord Jackson raised concerns about the circumstances in which an FNO may be sentenced to a custodial sentence of less than 12 months and subsequently be allowed to remain in the UK instead of being deported. On this point, it is existing Government policy to consider deportation where an FNO has been sentenced to less than 12 months and the person is a high harm, serious harm or persistent offender or where the person has combined custodial sentences of at least 12 months. In such cases deportation is considered under the Immigration Act 1971 on the ground it is conducive to the public good.

On the matter of asylum claims, all asylum claims are carefully considered on their individual merits in accordance with the Immigration Rules. The UK has a proud tradition of providing protection to those who need it in accordance with our obligations under the Refugee Convention and the European Convention on Human Rights. However, UK Immigration Rules allow us to refuse or revoke refugee status where there are reasonable grounds for believing that an individual claiming refugee status is a danger to national security or is convicted of such serious crimes that they pose a danger to the community. Such cases will be administered based on the individual circumstances, and where removal may not be possible upon refusal, these cases are subject to regular reviews to ensure such individuals are removed as soon as possible.

Further to Lord Jackson's points on religious conversion in asylum claims, the Home Secretary and Christian Faith Leaders have already agreed to work together to better scrutinise asylum claims based on religious persecution, in particular of those converting to Christianity, to ensure that those in genuine need are supported. At a meeting earlier this year with the Home Secretary, senior Church leaders in attendance (including the Archbishop of Canterbury, the Archbishop of York, and the Bishop of Chelmsford) went on record to say that they felt that reports on this subject had mischaracterised the nature and scale of the issue, but nonetheless resolved to work with the Government moving forward to develop our mutual understanding of how faith plays a part in asylum applications, and to improve how government officials and religious representatives engage with these processes and the nuances surrounding them. As I am sure my noble Lords will understand, it would not be appropriate for me to comment on the circumstances of any one specific case.

Lord Ponsonby asked whether the Government regrets decisions regarding changes to the Early Removal Scheme and subsequent removal of FNOs from our prisons, noting recent changes allowing for earlier removal or release. The Government has been clear that the removal of foreign nationals who abuse the hospitality of the UK remains a top priority. We have recently expanded the Early Removal Scheme, one of our most effective measures, to increase the number of FNOs in scope for removal. This, amongst many other measures pursued by this Government, will allow us to return more FNOs from prison this year than in any year since 2010, saving the taxpayer millions of pounds and keeping our streets safe. Our position is clear: foreign nationals who commit crimes in our country will be caught, punished and, where appropriate, removed.

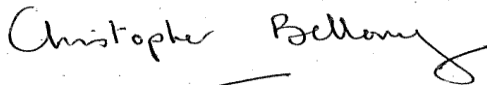
I noted the points raised regarding the recent report published by the Chief Inspector of Borders and Immigration. It is the Government's view that this report does not reflect the full complexities of returning foreign national offenders, nor the significant impact that COVID had on such operations, although it does

rightly acknowledge that many of the issues raised at the time of inspection were already being addressed at the time of inspection. The Government is already undertaking improvements, including a new casework structure, improved collaborative working with ringfenced resource in asylum and IECA to prioritise barrier clearance, and an overall increase in casework resource including a dedicated custodial decisions team to drive early decision-making and removals directly from prison. We are fully committed to protecting the public by removing foreign criminals and ensuring that they cannot frustrate the removal process.

Lord Jackson also noted the amendment to the Criminal Justice Bill tabled in the other place by Rt Hon Robert Jenrick MP seeking the regular publication of data on foreign national offenders. I understand that this amendment has been ruled out of scope of the Bill, but I nonetheless note the points raised by the noble Lord. Finally, on this point, I note that the Government already publishes data regarding the nationality of offenders in our prison system.

I hope this letter has provided further clarity on the important issues raised during the debate, and I am once again grateful to the noble Lords for their contributions. A copy will also be deposited in the House Library.

Kind Regards,

A handwritten signature in black ink that reads "Christopher Bellamy". The signature is written in a cursive style and is positioned above a horizontal line.

LORD BELLAMY KC