Dear Harriet,

Thank you for your letter dated 18 September 2018 in which you ask for more information regarding the approach we have taken to exclude foreign criminals from the historical cases reviews.

As I set out in my last letter to you, and in my letter of 21 August to the Home Affairs Select Committee, to date my Department has excluded all individuals with a “criminal case type” marker, but we have been reviewing this approach to ensure we have not adopted too broad a definition. Because of this, the numbers we gave in our update of 21 August remain provisional and subject to change.

Following work to review the population of previously excluded cases, we have identified that some individuals with a criminal case type marker may have committed only a minor offence/s or have been acquitted or not prosecuted. We have therefore revised our methodology. We will continue to exclude individuals who have been deported following a criminal conviction in the UK. These individuals will have committed crimes that were considered serious enough to have met the deportation threshold at the time and, as part of the deportation process, would have been offered the opportunity to make representations as to why their deportation should not proceed and to legally challenge the decision. For individuals that have not been deported (for example, individuals who have been detained but not removed) we will exclude them if they have been convicted of a single sentence of imprisonment of 12 months or longer.

Both Section 32(4) of the UK Borders Act 2007 and Section 117C of the Nationality, Immigration and Asylum Act 2002 make clear that there is a public interest in deporting foreign criminals who have been imprisoned for 12 months or more, into which category these individuals will fall. As Home Secretary it is my duty to protect the public and I therefore draw a purposeful distinction between criminal and other cases. We are therefore excluding these individuals from the Historical Review because I do not wish to include those for whom Parliament has said there is a public interest in their deportation.

Work is now underway to review the previously excluded cases. Any who do not meet the exclusion criteria set out above will then have their records checked to identify whether
there is anything to suggest they told the Home Office that they came to the UK before 1973, and their details will be passed to the Taskforce who will seek to proactively contact them. The exclusion of any individuals does not prevent anyone from contacting the Taskforce themselves.

As with your letter, I am copying this letter to the Chair of the Home Affairs Select Committee, Yvette Cooper. We will continue to keep both committees updated on the progress of this work.

Rt Hon Sajid Javid MP
Home Secretary