GOVERNMENT RESPONSE TO THE JUSTICE COMMITTEE’S REPORT ON DISCLOSURE OF YOUTH CRIMINAL RECORDS

Thank you for your letter dated 12 February 2019, regarding the Supreme Court’s judgment in P, G, and W; and Gallagher [2019 UKSC3] and our response to the recommendations made in the Justice Committee’s 2017 Report into the disclosure of youth criminal records. I understand you also wrote to the Home Secretary in similar terms and I hope you will accept this in response to both letters.

The Ministry of Justice and the Home Office are considering the Supreme Court’s judgment the Government will respond to the Supreme Court’s judgment once we have agreed the next steps.

As always, we are grateful to hear the Committee’s view and agree that we need a criminal records regime which allows children who offend to move forward with their lives and progress from their previous behaviour. The Government acknowledges the important part that gaining employment plays in enabling ex-offenders to put their offending past behind them. The Supreme Court also considered the effect that failing to secure employment can have on ex-offenders, but recognised that there is a difficult balance to be made between giving employers the information they need to take informed recruitment decisions, and an individual’s right to a private life under Article 8 of the European Convention on Human Rights.

Any proposed legislative changes must reflect the judgment, but we must also ensure that employers have appropriate and relevant information to take informed decisions about suitability for sensitive roles. The Supreme Court recognised that position in their judgment, and the role of the disclosure regime in supporting employers.

As you are aware, we committed to considering the Committee’s recommendations for reform of the criminal records system after the Supreme Court handed down its judgment. We made the same commitment in response to recommendations made by David Lammy MP and Charlie Taylor. We will need to fully consider the implications of any changes and therefore we are not able to respond formally at this time.
You will be aware that we have already decided not to take forward certain recommendations made by the Committee. Our position on these recommendations is clearly laid out in both the Government response and my previous letter to you on the subject, dated January 2018. Regarding the remaining recommendations, I hope to update the Committee in due course on next steps and our plans for formally responding.

RT HON DAVID GAUKE MP