House of Commons

London, SW1A 0AA April 2022

Dear

I write to you as my constituency MP, to raise my concerns about the Government’s response to the Report published by the Westminster Commission on Miscarriages of Justice, ‘*In the Interests of Justice*’, on 5 March 2021.

Alex Chalk MP addressed some of the findings of the inquiry in Parliament on 13 April 2021, but made it clear that “the Ministry of Justice will consider each recommendation for the Department in detail… No doubt there will be a further response in due course”. This has not happened. When Catherine West MP asked for an update on 2 March 2022, James Cartlidge MP simply referred her to the deficient response made by Alex Chalk MP the year before.

The Westminster Commission made over 40 recommendations in its report. Whilst the vast majority of these were directed at the Criminal Cases Review Commission, 9 of the recommendations made by the inquiry require legislative change (list attached). These reforms fall into three broad categories: Reforms to the Court of Appeal, reforms to the Crown Prosecution Service, and reforms to assist the work of the CCRC. Thus far, the Government has only addressed the recommendations affecting the internal workings of the CCRC itself, and not the legislative reforms.

I would like to hear the Ministry of Justice’s considered response to the three categories of legislative reform, and would be most grateful if you could put the following specific questions to the government:

* What action is the government taking to implement the 4 legislative changes recommended by the Commission in respect of the Court of Appeal, to assist it in its consideration of criminal appeals?
* What action is the government taking to implement the 2 legislative changes recommended by the Commission in respect of the Crown Prosecution Service, to assist in evidence retention and disclosure?
* What action is the government taking to implement the 3 legislative changes recommended by the Commission to extend the powers of the CCRC and assist it in carrying out its role?

More than a year has passed since the inquiry published its recommendations. Indeed, the specific recommendation to amend the Criminal Appeal Act 1968 was originally made by the Justice Select Committee in 2015 (‘*Criminal Cases Review Commission*’, Twelfth Report, Session 2013 – 14, HC 850).

It is deeply disappointing therefore, that 7 years on from the Justice Select Committee, and so long after the Westminster Commission, the Ministry of Justice has failed to release a properly considered response. I am aware that Tom Pursglove MP wrote to Andrew Selous MP in November 2021, in response to a constituent enquiry, to say that “The Ministry of Justice has welcomed the report and we continue to consider its findings”. Victims of miscarriages of justice and their families cannot afford further delay or prevarication. The time to act is now.

I struggle to see the point of a staging a public inquiry, Committee or Commission, if their findings are simply to be ignored by government. It critically undermines public confidence in their credibility, and will have a chilling effect on the willingness and good faith of stakeholders to participate in future inquiries. Their voices are being disregarded, while the good work of the Honourable Members of Parliament who heard all of the evidence and compiled these reports is going to waste. As such, I would like to know:

* Why has this government not taken the opportunity to table amendments to the Police, Crime, Sentencing and Courts Bill, implementing the legislative changes recommended by both the Committee and the Commission?
* Will it commit to doing so now, or – alternatively – to bringing forward a Private Members Bill?

In particular, I would be most grateful if you could raise the Westminster Commission’s recommendations to reform the Criminal Appeal Act 1968 (points 1 and 2 of attached briefing summary) at Prime Minister’s Questions.

Many thanks for your time and I look forward to hearing from you,

Gratefully Yours,

**Category 1 – Legislative Reforms to assist the Court of Appeal**

1. **Amend the Criminal Appeal Act 1968 to “allow and encourage the Court of Appeal to quash a conviction where it has serious doubt about the verdict, even without fresh evidence or fresh legal argument”**(pp 40 – 42, 68 Commission Report 2021, p. 28 Justice Select Committee Report 2015).

This is critical because, as the Commission found, "the Court of Appeal's approach to cases may prevent some miscarriages of justice being corrected". "This is particularly the case where there is little or no fresh evidence and argument, but where it appears that the initial verdict may nonetheless be flawed or perverse: the classic "lurking doubt" cases".

1. **Amend the Criminal Appeal Act 1968 to mandate and encourage the Court of Appeal to conduct a “cumulative review” of the issues in a case**, rather than approaching the issues in an atomistic fashion and without reference to issues raised in previous appeals. It is often the cumulative effect of evidence that is probative and decisive. The Court of Appeal must be able to “take the widest view of the circumstances which may have resulted in a wrongful conviction” (pp. 43, 68 Commission Report 2021).
2. “Introducing the premature destruction of crucial evidence which could have undermined the safety of a conviction as a standalone ground of appeal” (p. 68 Commission Report 2021).
3. Extend the 28-day time limit for applicants to lodge appeals after conviction (p. 68 Commission Report 2021)

**Category 2 – Legislative Reforms affecting the Crown Prosecution Service,   
Attorney General, Police, and Crown Courts**

1. Broadening the law on post-conviction disclosure to assist appellants in accessing evidence to make applications for leave to appeal (pp. 49 – 52, 68 – 71 Commission Report 2021)
2. Amend the Crown Court Retention and Disposition Schedule so that Crown Court trial audio recordings are held for the duration of a prisoner’s custody (or for at least 5 years, whichever is longer) and not destroyed   
   (p. 71 Commission Report 2021).

**Category 3 – Legislative Reforms to assist the work of the CCRC and extend its powers**

1. Introducing a statutory power requiring public bodies to comply within a fixed timescale with requests for disclosure made by the CCRC under s17 Criminal Appeal Act 1995 (pp 40 – 42, 68 Commission Report 2021, p. 29 Justice Select Committee Report 2015).
2. Amend the Criminal Appeal Act 1995 to enable the CCRC to disclose material gathered during its review to the applicant (p. 72 Commission Report 2021)
3. Amend s13 Criminal Appeal Act 1995 to mandate that the CCRC makes a referral where an application meets the criteria (p. 68 Commission Report 2021).

Above summary compiled by *www.freeMarkAlexander.org*. The full Westminster Commission report is available at:

*https://appgmiscarriagesofjustice.files.wordpress.com/2021/03/westminster-commission-on-miscarriages-of-justice-in-the-interests-of-justice.pdf*