

Association of Women Barristers Annual Dinner



Speech by Baroness Prashar Chairman of the Judicial Appointments Commission 18 October 2006

First, let me say how pleased I am to be here tonight. I know that the Association is only in its sixth year, but it has a strong voice and a vital role to play.

I applaud the strength of the Association's evidence to the House of Lords Select Committee on the Constitutional Reform Bill two years ago – "a judiciary which is composed of mainly white male ex-barristers is regarded by some as a national disgrace."

The Association made two particularly important points in that evidence. First, you said that the case for an independent JAC was essential – so I hope we live up to your expectations.

And secondly, the Association declared that it had the highest regard for the excellence, high integrity and merit of the existing Judiciary. That is a key point. The JAC must do nothing to damage that reputation; but equally we must do everything to find that excellence, integrity and merit from throughout our diverse society.

But the JAC does not have a magic wand. Our ambition to recruit the very best people from among the widest range of communities will remain simply that – an ambition – unless others play their part – that includes LCJ, DCA and you. All must embrace the change that is necessary to make a difference.

We are determined to seek out candidates with the right qualities, from a much wider pool. That is where you come in. Now, everyone who wants a judicial appointment has to apply – there's no other route. 'Tap on the shoulder' has been dispensed with! I hope you will now have some comfort that if you apply you will be treated fairly and on merit.

As you are aware the JAC has three key statutory duties.

The first is to select candidates solely on merit. And let me stress that merit is not the enemy of diversity. For us, diversity means the search for merit wherever it can be found.

The second duty is to select only people of good character. That is important because we do not want to appoint anyone who will bring the judiciary into disrepute.

And the third duty is to have regard to the need to encourage applications from a wide range of candidates – a key challenge.

When we have made our selection, the Lord Chancellor must accept it, or explain to us why he has refused. The removal of his sole authority has been one of the greatest changes seen in 700 years.

At the outset, we set ourselves three priorities.

Our first priority was to define what makes a good judge. We have done this. We consulted a number of organisations and individuals about our proposals and are grateful for feedback which helped us to. You were consulted, and I am grateful for feedback from the Association of Women Barristers and others, which helped us refine our criteria.

The next priority was to identify the fairest and most effective assessment methods – proportionate to the level of appointment.

The third was to devise ways to reach and encourage a wide range of applicants.

The system we inherited was cumbersome and flawed. We all know that the road to Hell was paved with good intentions – but I'm pretty sure it was designed by well-meaning bureaucrats!

Amongst the complaints I heard were that the process was over-complex, time-consuming, and hard to follow.

Another major criticism of the old system was the way in which potential applicants were identified. It was generally believed that the system didn't look very widely. Don't bother applying, said the whispers, unless you are in a favoured position that is visible and known. We want to change all that. But we cannot change that on our own.

We cannot sensitise the judiciary to diversity issues: that is the role of training. After we have made our selection, and the Lord Chancellor has made his appointments, new judges must be trained to appreciate the needs of modern society, in all its forms. That responsibility lies with the Lord Chief Justice and the Judicial Studies Board.

And, while we will fish every part of the pool for applicants, we can only deal with the pool as it is. That pool has to be made bigger. We need the greatest diversity of people to enter the legal profession. This requires the combined and continuing efforts of the DCA, and the professional bodies that is the Bar Council and the Law Society and, of course, AWB.

For our part, we have attempted to devise a much less cumbersome more user friendly methods of selecting judges. The complete package launches on 31 October: new processes, new adverts, new qualities and abilities and new ways of reaching out. I am dining out most evenings for queen and country!

We will never be complacent and our approach will be one of regular challenge and improvement.

We also been listening hard, and heard about a number of perceived barriers to entering the judiciary.

- You have to be an advocate.
- You have to be known to the senior judiciary.
- You have to be from a certain educational background.

These are all myths. But there are, I know, some real problems. For example, applicants who are parents find the demands of the job inflexible and the travelling a deterrent. For barriers which we can do something about, we will take action. Others which are outwith our remit we will draw to the attention of the DCA, HMCS, Law Society and the Bar.

We do need to change perception, mythology and attitudes. We have begun to do that. But it is a long haul. We are introducing changes. You will hear about changes at the end of this month. But let me just give you some examples. The new application form has 9 pages, rather than the 29; the new qualities and abilities number just 5, with 16 supporting abilities, as opposed to 9 with 50 supporting statements.

Talking about processes for appointment is not the most riveting after dinner subject, so I will not go into detail. Sufficient to say that we have attempted to ensure:

- that we attract and enthuse the widest range of the best possible applicants,
- that we maintain the standards by ensuring that methods for appointment are rigorous and fair.
- that all our applicants – successful or not - feel they have been assessed fully and fairly, and.
- that we sustain public confidence.

Of course, it is always important to maintain a sense of proportion. In the old system, candidates were always interviewed by a senior official from the Lord Chancellor's Department. The final question was always the same. "Is there anything about you which, if it were to become public, might embarrass the Lord Chancellor?"

To which, after reflection, one hopeful candidate replied: "Tell me, how easily is the Lord Chancellor embarrassed?"

Public confidence is crucial. In today's world we are facing dangers and doubts on a scale not seen for 60 years. This puts pressure on many of our institutions, not least the courts. Whatever those pressures – from the media, from public opinion, or from the Government – the judiciary must be seen to uphold the values of justice and independence for which they are renowned.

And when it comes to public confidence, there can be few stronger messages than to know that our judges are the best available people, drawn from throughout our diverse society, and united in their service to the law, justice and the public. It is therefore imperative that we change the complexion of our judiciary. JAC has embarked on its work with determination but we need to work with organisations like yours and others to make a difference.