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**Speech by Baroness Prashar  
Chairman of the Judicial Appointments Commission  
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Good evening. Thank you for inviting me to talk to you tonight. The student law society does some excellent work and I'm very pleased to join the ranks of your speakers, who I know include some of the country's best solicitors, barristers and judges.

I'm going to start my talk with a little background on how and why the JAC was established. I'll then set out what we as an organisation see as our main priorities, and I will describe the processes through which judges are selected, and the qualities and abilities we believe are required for judicial office.

I will then look very briefly at the range of judicial careers open to you. (I know it may seem rather early yet for some of to be planning a judicial career, but it's never too early to sow the seeds of ambition!) Finally, I will talk to you about the work which the JAC is doing to widen the range of judicial applicants, and in so doing to promote the diversity of the judiciary as a whole.

First some history. We, the JAC, were set up under the Constitutional Reform Act 2005, which came into force in April last year. The establishment of JAC is one of a number of fundamental, historical changes brought about by the Act, which also reformed the office of Lord Chancellor, and established the Lord Chief Justice as head of the judiciary of England and Wales.

I cannot over-emphasise the importance of these changes. The Constitutional Reform Act means that, for the first time in its history, the judiciary is fully and officially independent of the government, and the Lord Chancellor no longer has the power to choose which judge to appoint.

But why was the change needed? The Act was designed to enhance the independence of the judiciary and to ensure clarity in the relationship between the Executive and the judiciary. The current Lord Chancellor, Lord Falconer of Thoroton summed up the issue well when he said: "In a modern democratic society, it is no longer acceptable for judicial appointments to be entirely in the hands of a government minister. For example, the judiciary is often involved in adjudicating on the lawfulness of the actions of the Executive. And so the appointments system must be, and must be seen to be, independent of Government."

Until 1993, the system of judicial appointments in the UK was what was described by the Home Affairs Committee as “a closed system of selection by peers and supervisors which is free from scrutiny and largely free from challenge or redress”.

One of the main criticisms was about the system of consultations, often referred to as “secret soundings”. Amongst others, Frances Gibb, legal correspondent of The Times, highlighted the keeping of confidential files with comments on candidates going back several years, and suggested that it was a system which fostered suspicion and secrecy.

These views were echoed in 1991 by the Law Society, which described the system of judicial appointments as “a very peculiar creature indeed”. It urged the Lord Chancellor to establish an independent appointments commission to help improve public confidence in the objectivity and even-handedness of the process.

Over the next 10-15 years the appointments system evolved, and a number of improvements were made. In 1993, the then Lord Chancellor, Lord McKay of Clashfern, said that he intended to introduce specific competitions for judicial vacancies. He announced open advertising, more specific job descriptions, more structured consultations on candidates, and the involvement of lay people.

His successor, Lord Irvine of Lairg, showed an appetite for further measures. He asked Sir Len Peach, a former Commissioner for Public Appointments, to consider whether safeguards against racial or sex discrimination were effective in selection procedures for judges and Queen’s Counsel.

All this was fine as far as it went. But it did not go far enough, and it did nothing to encourage people outside the stereotypical group of most appointees to think that their application would be seriously considered. So, while no-one questioned the very high calibre of the judges being appointed, they certainly could not observe great diversity. As the Association of Women Barristers wryly put it: “the plums fall very close to the tree”.

So in March 2001, the Commission for Judicial Appointments was established. Despite its title, CJA did not select candidates for judicial office, and despite its similarity to JAC in name, it was not in any real way our predecessor body. Instead, its job was to monitor the Lord Chancellor’s procedures and to act as Ombudsman for disappointed candidates and groups. It was also asked to select further improvements to the process.

The Commission proved to be the catalyst for a number of significant improvements, including the introduction of assessment centres for some judicial appointments, and the provision of formal feedback to unsuccessful candidates. But it complained of a continuing lack of transparency and revealed that not only did the public not understand the judicial appointments system: the legal profession itself was also in the dark.

The Government had been listening. In July 2003 the Department for Constitutional Affairs issued a consultation paper entitled Constitutional Reform – A New Way of Appointing Judges. The progress of the Bill was not without its challenges – not least, the need to preserve the standards which have given our judiciary its outstanding international reputation for integrity and competence while at the same time disentangling the conflicts, confusions and contradictions of the old supervisory arrangements.

But despite this, the Constitutional Reform Act received Royal Assent in 2005, and the provisions concerning the judiciary were activated in April 2006.

The JAC was officially launched on 3 April 2006. There are fifteen Commissioners, including myself. Everyone has been selected through open competition, except three who were selected by the Judges' Council. We include people from across the judiciary and the legal profession - and some lay people who are all highly distinguished in their respective fields. But none of us are delegates or representatives of particular professions. Every Commissioner has been appointed in his or her own right. Our breadth and diversity are important. Our collective strength comes from each Commissioner's knowledge, expertise and - above all - independence of mind.

JAC's primary task, which we have taken over from DCA, is to appoint judges and tribunal members. We will be making some 500-700 appointments a year to vacancies throughout England and Wales. In due course, we will also select magistrates.

The Act gives the JAC some very specific responsibilities, including three statutory duties.

The first of these is to select candidates solely on merit. The reputation and quality of our judiciary cannot be compromised - we must select the very best.

The second duty is to select only people of good character. In doing so, the Commission will adopt two fundamental principles:

- the overriding need to maintain public confidence in the standards of the judiciary; and
- that public confidence will only be maintained if judicial office holders and those who aspire to such office maintain the highest standards of probity in their professional, public and private lives.

And the third duty is to have regard to the need to encourage applications from a wider range of candidates. And let me stress here that diversity is not the enemy of merit – quite the opposite. For us, diversity means the search for merit wherever it can be found.

The JAC does not make the actual appointment of candidates: that remains the responsibility of the Lord Chancellor, who is responsible to parliament for the appointments. For each vacancy the Commissioners will select one candidate to recommend to the Lord Chancellor for appointment. He can reject that recommendation but he is required to provide his reasons to the Commission. He cannot select an alternative candidate.

From the outset, we at the JAC set ourselves three priorities.

Merit is the bedrock of our selection. So the first priority was to define it - in other words, to define what makes a good judge. Our new definition covers five core qualities and 17 supporting abilities which we will look for in judicial applicants. The precise qualities and abilities will vary slightly - for example a High Court judge would be expected to display a high level of legal knowledge, whereas a lay tribunal member would be expected to display expertise in their professional field.

I won't run through all of our required qualities and abilities now – you can find them on our website - but here are some examples:

- Intellectual capacity. We are looking for people who show a high level of expertise in their fields; who can quickly absorb and analyse information; and who have appropriate knowledge of the law, and its underlying principles.
- Personal qualities. We want people who demonstrate integrity and independence of mind; who show sound judgement and are decisive and objective.
- We will select only those candidates who show that they are able to treat everyone with respect and sensitivity, and are willing to listen with patience and courtesy.
- Authority and communication skills are essential. Judicial appointees must be able to inspire respect and confidence, and to maintain authority when challenged.
- And they must be efficient, able to work under pressure and show appropriate leadership or management skills.

Having defined merit, it has to be identified. So the next priority was to develop the fairest and most effective ways of assessing candidates. We have established a new process for judicial selection, which draws on the best of the old system but ensures it is streamlined and transparent, as well as being as objective as possible.

One of the key criticisms of the previous system of appointments was that it was felt to be burdensome, time-consuming and very complicated. Before we introduced our new definition of merit, applicants were judged against 9 competencies, involving 50 supporting behaviours. All of these have to be demonstrated, so the application form was around 20 pages long, with similarly lengthy guidance notes. A great deal of resource therefore had to be devoted just to explaining the process to would-be applicants. It really tells you something when even the legal profession complain that a process is over-complex and hard to follow!

We have cut the application form for candidates down by almost a half, to 12 pages. We have introduced new, impartial processes for all candidates, which may include qualifying tests, case studies, interviews or role-play, depending on the nature of the job. And the system of references – what were formally called consultations – has been refined, with no more 'secret soundings' or taps on the shoulder.

The third priority we set ourselves was to devise ways of reaching out to and encouraging more applicants to the judiciary.

The way in which potential applicants were identified was a major criticism of the old system. Let's be frank: it was generally believed that the system didn't look widely for applicants. Don't bother applying, said the whispers, unless you are in a favoured position.

We have made great strides in promoting judicial vacancies and encouraging a wider range of applicants. As well as making the process itself more streamlined and objective, we are advertising more widely - online as well as through traditional print media – using more eye-catching and engaging adverts than before. We are working closely with a wide range of organisations, from the Association of Women Barristers to the Black Solicitors Network, to make sure as many eligible candidates as possible find out about vacancies.

The JAC also runs careers roadshows throughout the country, and I and my fellow Commissioners undertake a range of speaking engagements aimed at encouraging people to consider a judicial career. Many of you may feel you are too young to consider working in the judiciary yet, but I'm not going to miss this opportunity to encourage you to bear it in mind for the future!

A judicial career can be immensely rewarding, exciting and intellectually challenging. Usually, initial appointments are made to a fee-paid post such as Recorders, Deputy District Judges and most Tribunal appointments. A fee-paid appointment gives people an opportunity to decide whether they want to pursue salaried office and whether they have a preference for a particular jurisdiction, and also allows them to build up the necessary practical experience to apply. Fee-paid judges sit in the courts or in tribunals on a part-time basis, usually for a minimum of 15 days a year. For the rest of the time they continue pursuing their usual day to day activities.

The current standard eligibility criteria for most judicial posts to have been qualified as a solicitor or barrister for at least seven years or ten years. There are of course specific statutory qualifications and requirements for each judicial office, and candidates must display the qualities and abilities set out by the JAC. But there are no hidden criteria or secret entry codes. You do not have to be an advocate. You do not have to be known to the senior judiciary. You do not have to be from a certain educational background. Anyone who has the statutory legal qualification for the post in question can apply for a judicial career. I would encourage you bear the judiciary in mind as a career option. It may not be as far down the track as you think - an applicant at the age of 29 was recently selected for a judicial appointment.

That's the 'hard sell' over! I want now to touch on the issue of diversity, because I am often asked if there is a tension between the requirement to seek candidates from the most diverse pool and the equally powerful requirement to appoint on merit. Merit is our bedrock. We will not depart from it when making recommendations.

There is no question of compromise in the name of diversity, because there is no need for compromise. Merit and diversity are not incompatible. For us, diversity is the search for merit, wherever it can be found.

Let's just spend a moment looking at the facts and figures about judicial appointments and their diversity. The changes – or lack of change – over time provide a salutary lesson.

In 1950, about 25 judges were appointed, excluding magistrates. No-one would have been surprised about a lack of diversity back then. But the demand for judges has grown by 28 times over the next half century. There was thus certainly the opportunity for greater diversity. But despite the hard work by successive Lord Chancellors during this period, the results are disappointing.

These are the figures from the judiciary website for this month.

- There are 54 holders of the very highest judicial offices such as Lords of Appeal and Heads of Division. Four are women. None are from minority ethnic groups.
- There are 107 High court judges. But just 10 are women. Only one is from a minority ethnic group.
- There are 635 circuit judges. 73 are women –11.5 per cent. Nine are from minority ethnic groups – just under 1.5 per cent.

- Amongst the 1,350 Recorders just 14 per cent are women and 4 per cent are from ethnic minorities.
- The picture is a little better among district and deputy district judges. Here, the proportion of women is around 25 per cent . But for minority ethnic groups, the proportion is no higher than just over 5 per cent.

No wonder then that for the JAC, diversity is a major challenge. We must find new ways to attract suitable candidates, who for various reasons are put off from applying at present. Then we have to make sure that there is no bias in our processes that disadvantages any particular group whether they are ethnic minorities, women, or people with disabilities - or even white middle aged males.

The JAC cannot and does not work in isolation. We have developed a trilateral Diversity Strategy with the Department for Constitutional Affairs and the Lord Chief Justice. This commits the three parties to bringing about a more diverse judiciary with increased understanding of the communities it serves, in order to ensure a judiciary of the highest quality which contributes to increased public confidence in the justice system.

The JAC will do everything in its power to widen the range of applicants to the judiciary. We will fish every part of the pool, but we can only deal with the pool as it is. The range of eligible candidates must be expanded. We need the greatest diversity of people to enter the legal profession, from every community.

Expanding the pool requires the combined and continuing efforts of the DCA, Bar Council the Law Society and other professional bodies. It also requires commitment from law schools and colleges, and from all the firms which you are likely to be working for in the future. Everyone needs to encourage the widest range of the brightest and best people to take up the law, and to ensure that no-one feels excluded from any job within it.

I hope I have explained why the changes brought in under the Constitutional Reform Act are so significant, and how the JAC is addressing some of the concerns about judicial appointments which have been voiced over the years.

In streamlining our selection process; in publishing new qualities and abilities against which all applicants will be assessed; and in advertising and promoting vacancies widely, we are doing everything in our power to attract the highest possible standard of applications, from eligible candidates of all backgrounds and all professional walks of life.

The judicial appointments system can and will appoint only the very best candidates. It cannot afford to do less. Our society is not perfect: we face threats from those who would claim that it is incorrigibly divided, or inherently discriminatory. The composition of the judiciary sends an important signal. When it comes to reassuring communities there can be few stronger messages than the knowledge that our judges are the best people for the job, drawn from throughout our diverse nation and united in their service to the law, justice and the public.