



Justice Committee

Oral evidence: Pre-appointment scrutiny of the Chair of the Judicial Appointments Commission, HC 416

Tuesday 12 July 2016

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Members present: Robert Neill MP (Chair); Richard Arkless MP; Alex Chalk MP; Philip Davies MP; Chris Elmore MP; David Hanson MP; John Howard MP; Victoria Prentis MP.

Questions 1 – 54

Witness: **Rt Hon Lord Kakkar**, preferred candidate for the Chair of the Judicial Appointments Commission, gave evidence.

Q1 Chair: Good morning, Lord Kakkar, and thank you very much for coming in to see us. We appreciate your time.

Lord Kakkar: Thank you so much.

Chair: We have some preliminaries. You are the preferred candidate for a job where you are not actually allowed to be a lawyer. One or two of us are lawyers, so we will declare our interests. Mine is as a non-practising barrister, but I do not think it is ever likely to cause any issues as far as the role of the Judicial Appointments Commissioner is concerned. Are there any declarations of interest?

Alex Chalk: I am a practising barrister.

Victoria Prentis: I am a non-practising barrister.

Richard Arkless: I am a non-practising solicitor in England, Wales and Scotland.

Q2 Chair: None of us is applying for any judicial appointments anyway. Can you help me about one thing? Your background is in medicine originally.

Lord Kakkar: Indeed. Can I say something at the outset, Chair?

Chair: Yes.

Lord Kakkar: I was slightly disappointed in the candidate record form that was generated by the company Korn Ferry that was doing this process. I want to explain why, because it

is quite important to me. The content of their form is absolutely fine, and I am totally happy with it, but they did two things that disappointed me. The first is that I have degrees that I earned by examination, because I went to medical school and became a fellow of the Royal College of Surgeons, and those rightly should appear in the section of their template under “Education”. In my career, I have also had degrees conferred upon me through resolution or election—fellow of the Royal College of Physicians, and, on joining the governing board of Harris Manchester College at the University of Oxford, and therefore Congregation, an MA from Oxford. They put those in the education section as well, which I think is completely wrong. You need to differentiate those you have earned by examination and those that have been conferred upon you. This was only brought to my attention on Wednesday last week when I was shown the form, so I asked them to change it.

Secondly, they have put in a lot of things about my career—because I keep an accurate record—that I thought were not relevant to this particular position, the position being so senior, participation in all-party groups and things like that, so I suggested that those were removed as well. I am entirely content with their version, of course, but I wanted to make the point that I had discomfort about those two issues.

Chair: I understand, and I think we have a version that you agreed yourself.

Lord Kakkar: It is just that I came to realise that it would become part of the record for these proceedings, so I would like it to be proper in my opinion.

Q3 Chair: You are happy that we have all the relevant information now.

Lord Kakkar: Yes.

Q4 Chair: Against that distinguished medical background, what made you apply for this role in relation to the Judicial Appointments Commission?

Lord Kakkar: I did not actually. When it was advertised, I did not know it was being advertised. I was approached and it was suggested to me that I allow my name to go forward. I read the information pack that was sent to me and started to read around the role more, and came to the conclusion that it was a vitally important role. I, like all fellow citizens in our country, am dependent on and strongly support the principle of an independent, fair judiciary and the rule of law in our country. I have come to understand, by looking at the Constitutional Reform Act 2005 and subsequent parliamentary Acts, that huge emphasis is placed on this role and that, therefore, an important way that I could make a potential contribution, if indeed the appointment panel and your Committee thought it was appropriate, would be by serving in the role and trying to ensure that the appointment process as envisaged by an independent Judicial Appointments Commission worked as planned.

Q5 Chair: You have obviously done research about the constitutional position. There is sometimes an interface between medicine and the law in some areas. What is your other experience and understanding of the judicial system? Is it something you have ever been involved with particularly?

Lord Kakkar: I have not directly been involved in the judicial system, and I noticed that the only requirement for this position is that one had no legal background whatsoever. Clearly, as you rightly say, in medicine we have an important interaction with the law. I am a member of the General Medical Council, which has a semi-judicial role in setting the standards by which doctors in the United Kingdom are expected to practise. Because the council is smaller—a 12-member council—it no longer has a role in running fitness to practise procedures, and indeed any, let us say, judgment made after a fitness to practise procedure is heard by an independent tribunal, the Medical Practitioners Tribunal Service. Nevertheless, the GMC—the council of 12—has responsibility for supervising all of that, and that would be my closest interaction with the law, apart from, I should add, sitting in the other place, where I have tried to be an active participant and have taken great interest in as many of the Bills as possible that have come through in the six years I have sat there.

Q6 Chair: On that point, does that potentially create any difficulty for you, because you may have voted, or might vote in the future, on matters that impinge on the judiciary? How would you resolve that?

Lord Kakkar: That is an important point. The first chairman of the Judicial Appointments Commission was Baroness Prashar, who sat in the House of Lords, and there was no problem during that time. I have always found that, if there are issues where it is inappropriate for me to participate in a debate or to vote, I do not do so, and I am fastidious in declaring my interests. Clearly, if I were appointed to the JAC, that would be an important part of my declaration of interests in the Lords.

Q7 Chair: This is the final question from me. You said you were approached. Was that by a recruitment consultancy?

Lord Kakkar: Yes. A man at Korn Ferry phoned me up.

Q8 Mr Hanson: Do you know how many other people were approached, by any chance?

Lord Kakkar: I do not.

Mr Hanson: Just for the record, Chair, it might be interesting for the Committee to find out in due course how many people were approached, because a recruitment was undertaken and it is interesting that the successful candidate was approached. I would be interested, as an aside, in how that works.

Chair: We can do that outside the meeting.

Q9 Mr Hanson: I am grateful to you for coming today, Lord Kakkar. You have provided your CV and there is a lot of current activity on it. You are chairman of UCLPartners, a professor of surgery, a Member of the House of Lords, and currently a director of the Thrombosis Research Institute. You are a member of the governing body of Harris Manchester College and a trustee and governor of King Edward VII College. You are on the UAE-UK Business Council, you are the UK business ambassador for healthcare and you are currently the House of Lords Appointments Commission chair and the Health Honours Committee chairman. You are a Royal Hospital Chelsea commissioner and you are a member of the General Medical Council. How much time do you think you are going to spend on this job?

Lord Kakkar: I am going to spend a lot of time on it. I have not been so presumptuous as to assume that your Committee would approve my name, but I have already worked out the organisations and jobs that I will give up. If I am approved, I will talk to them and give up a number of positions to make the appropriate amount of time available to do this job.

Q10 Mr Hanson: How much time do you think you need to do this job?

Lord Kakkar: I have been advised that it will be about two days a week, and I am happy to make that commitment.

Q11 Mr Hanson: Thank you for that. Your predecessor, Mr Stephens, stated that his predecessor had worked substantially more than two days a week. Is it your assessment that it will be a two-day-a-week job?

Lord Kakkar: That is what I was advised a number of times when I asked that question, and that is what I am planning for.

Q12 Mr Hanson: How many days a week is the job of the Chair of the House of Lords Appointments Commission?

Lord Kakkar: The House of Lords Appointments Commission meets only when we have a list of names to consider.

Mr Hanson: Which will be tomorrow, I would think.

Lord Kakkar: I think we are going to be busy for the next couple of weeks; there is no question about that. We have a secretariat based in and serviced by the Civil Service Commission and they run the vetting procedure. The work of that commission is to vet names for propriety only for the political names that are submitted to us. For Cross-Bench applications, through the independent House of Lords Appointments Commission route, we assess suitability as well as propriety, and that takes a little more time, but we are limited in the numbers of appointments we make so there is no fixed weekly commitment.

Q13 Mr Hanson: What skills do you have in that role that are transferable to the proposed role?

Lord Kakkar: During my career as a clinical academic I have had to learn to make appointments transparently and fairly, following clear criteria. That is exactly the approach we use in the House of Lords Appointments Commission. That is the first important skill.

The second skill I have developed is that in chairing a commission such as HOLAC, even though it is a tiny activity by comparison to the JAC, one has to provide the corporate governance to make sure that the civil service secretariat is working properly, that it sticks to budget and so on and so forth.

The third is to make sure that the criteria for appointment, whether it is vetting or assessment of suitability, are properly developed, that there is consensus among commission members and, in addition, that the commission collectively is able to apply its insights and judgments when considering individual nominations to ensure that we get to the right conclusion. Many of those skills will also be important in the work of the Judicial Appointments Commission.

Q14 Mr Hanson: Is the House of Lords Appointments Commission one of the positions you intend to maintain or are you considering giving it up?

Lord Kakkar: That is a conversation I need to have with the Prime Minister but have been unable to have. It will be a conversation I have with the Prime Minister in the autumn. There is some ongoing work there and I will make an appointment to go to see the PM and talk about that role.

Q15 Mr Hanson: Would it be your wish to continue in that role or to remove yourself from it?

Lord Kakkar: I would like to have the conversation with the Prime Minister and the courtesy of offering the Prime Minister the opportunity to decide. My term will come to an end anyway; it is a fixed single term. I will be guided by the PM.

Q16 Mr Hanson: When does your term end?

Lord Kakkar: It is due to end in 2018. We have some work, as you identified, in terms of ongoing lists at the moment for Cross Benchers, and there will be a political list. There is some work to do with regard to appointment to that commission with members leaving, which I feel I have an obligation to complete.

Q17 Mr Hanson: In summary, you are saying to the Committee that, given your current level of commitments, the House of Lords appointment role and the two days a week, you feel it is manageable.

Lord Kakkar: Yes. I will be giving up important parts of my other responsibilities. I could tell you what I have planned, but I have not told them yet, so I should talk to the organisations, the university and so on and let them know first, but I will be giving up things.

Q18 Alex Chalk: Can I come in on that? You are at the moment a consultant surgeon; is that right?

Lord Kakkar: Yes.

Q19 Alex Chalk: May I ask in which area of surgery?

Lord Kakkar: At UCLH I am a general and breast surgeon.

Q20 Alex Chalk: Is it anticipated that you will continue to perform surgery?

Lord Kakkar: No.

Q21 Chris Elmore: You clearly have extensive experience of different organisations through your professional and wider work. One key part of the role is to chair boards effectively, and handle the relationship between the board and the executive. Could you elaborate on what experience you have in that particular role, specifically of chairing and of negotiating between the board and the executive?

Lord Kakkar: My most important role in that regard is as chairman of UCLPartners, which is an academic health science partnership comprising universities, NHS organisations and, increasingly, interaction with local government across north-central and north-east London and parts of Essex and Hertfordshire. The partnership has responsibility for a population of about 6 million people. I chair the board, which is much more like a supervisory board. The partnership itself—the company—is small, having about 50 employees, but we co-ordinate, of course, very large organisations that are in the partnership, such as University College Hospital, University College London, the Royal Free and hospitals throughout that geography. My role as chairman is exactly to ensure that there is proper corporate governance, to ensure that the board sets the priorities for the executive team, sets objectives that allow the executive team to be held to account on a regular basis, to ensure that we stick to budget and that we continue to bring in the funds to discharge our responsibilities. We have a corporate HR function, a corporate finance function, as I said, and a corporate communications function. Beyond looking after our own executive team and interacting with them, I have responsibility for interacting with the broader partnerships and the leaders of all those organisations.

Q22 Victoria Prentis: Can we focus on the JAC for a bit? Have you made any assessment of its effectiveness at the moment?

Lord Kakkar: I have had some preliminary conversations and read some of the reports that various Committees from either House have undertaken. I would say at the moment that, in general, it is considered to be an effective commission. It seems in most areas to be meeting its objectives and the targets it has been set to look at its performance. There is no doubt that it will face in the coming few years the challenge of all bodies and Departments with regard to further cuts in its expenditure and will have to look, therefore, at how it can work more efficiently.

Q23 Victoria Prentis: It has seen its budget cut by almost half since it began, and staff numbers have also been reduced drastically. Have you been able to assess where you might look to make further cuts?

Lord Kakkar: Not yet. I have had a conversation with the current chief executive and would plan, if this Committee approves my name, to have that as a first interaction. I understand that, in general, they feel that the first year or two of this budget cycle will be tough but potentially manageable. Thereafter, there are more concerns, and one would have to look at how using different technologies and different approaches to running competitions and so on might make the commission more efficient. I have no view about that at the moment, but one conversation that was put to me was with regard to whether the JAC could in addition start to offer its services elsewhere, in semi-judicial roles and tribunals, where organisations wanted to make appointments and so on, and that could be income-generating. I would like to look at all those things and see where progress might be made.

Q24 Victoria Prentis: Are there any other priorities that you view going forward for the JAC? You have talked about budget and efficiency.

Lord Kakkar: I understand that a large number of the commissioners will be due to retire, and I think it is a fundamentally important role of the chairman to ensure that there is a

proper process for the appointment of new commissioners who will allow the commission to achieve its purpose and objectives. That would be an important early priority of mine.

Q25 Alex Chalk: I shall come to the prepared question, but I want to ask you something else at the moment, if I may. One of the essential criteria, as listed, is to show exceptional strategic skills to guide the commission through challenges, and Ms Prentis has just given an indication that one of those challenges might be budget cuts. Can you help us with how you would say you satisfied the description of exceptional strategic skills?

Lord Kakkar: I would be hesitant about ever saying myself that I was exceptional at anything, but I think UCLPartners is seen as a great success in a health economy that has had huge challenges. In most of the health economy, I think you would agree about a lot of the strategic direction. Bringing institutions together and reorganising services, allowing us to create centres of high volume in cardiovascular care and cancer care, for example, and mobilising the academic and research effort around those, have been important strategic decisions.

Q26 Alex Chalk: What was your role in that?

Lord Kakkar: I have been both chairman of UCLPartners and, prior to that, chair for quality, sitting on the board, so I was at the heart of all those strategic decisions and have helped to exercise them.

Q27 Alex Chalk: That is helpful; thank you. It may be too soon to ask you this, but let me try anyway. There is a target for the entire end-to-end process of appointments to be concluded within 20 weeks. You may be aware that Ken Clarke in the past said that it was too expensive and too long. The JAC's role as part of that process is targeted to be concluded within 18 weeks. Can that be achieved or is it too soon to say?

Lord Kakkar: I am afraid I do not think I can answer that question at the moment. I need to understand the fullness of that process—where it has and has not worked—and talk to those who have an interest in the area, stakeholders and so on, to make sure that I understand it, but I recognise that it is an important objective that should be fulfilled.

Q28 Philip Davies: Could I ask what your views are on diversity in judicial appointments?

Lord Kakkar: Diversity is clearly one of the set objectives of the commission and is understood to represent gender diversity and ethnic diversity, but should also, I think, include diversity of legal backgrounds entering the judicial profession. There is a lot of emphasis on barristers coming to the bench, quite rightly, and that has to be encouraged and they need to continue to be motivated to do that, but clearly solicitors should be offered the opportunity to serve in judicial roles and academics with legal training should also be considered. I understand that the Government Legal Service has made important advances in diversity, and they too are a potential pool. At the end of the day, appointment must be on merit and that is vitally important, because all citizens need to be confident that they are coming before a judge who understands the law and has been appointed on a clear set of criteria that, ultimately, focus on merit.

Q29 Philip Davies: When you say merit, does that mean you believe that the appointment process should be colour blind and gender blind and that people's gender and race are

irrelevant when they are applying for a job, because that is what, to my mind, and most people's minds, would be meant by merit?

Lord Kakkar: Yes, but I think it is merit within the context of what Parliament has asked the commission to do, which is the equality test in the Equality Act 2010 that was brought to effect in the Crime and Courts Act 2013. My own view is very clear: at the end of the day, it is irrelevant what background, gender, and so on, you are. We have to run a process that delivers meritorious candidates for appointment, and then a test might be applied, because Parliament has said that Parliament should do it, but it must be on the basis of merit.

Q30 Philip Davies: We have the equal merit provision—

Lord Kakkar: The equal merit provision, yes.

Philip Davies: It is where you have what I have always considered to be the fictional circumstance of two candidates who are exactly the same. I have been recruiting for years and have never come across two candidates who are identical, and it seems amazing that in the judiciary there are all these identikit candidates, because, since 1 July 2014, 21 recommendations have been made under the equal merit provision. Does that figure sound extraordinary to you too—that there were on 21 occasions two candidates who were identical?

Lord Kakkar: To be clear, I have not gone through all the criteria in the process that the Judicial Appointments Commission uses, so I cannot answer the question whether it is very surprising or not. I can simply say that, as far as I am concerned, we must have in our country absolute confidence in the judiciary. To do that, we must have a fair and transparent appointments system and it must be on the basis of merit. Parliament has provided that provision, which clearly has been used. I noticed in this morning's *Times* speculation about very senior appointments at present to the Supreme Court and Lord Chief Justice that are due to be made in the next year or so, and joined to that was a discussion of the equality provision mechanism. I would like to wait and see, but all I can say to you at this stage is that I believe that merit should be the basis.

Q31 Philip Davies: Will you give me an assurance that, under your chairmanship, the equal merit provision will not be used as a Trojan horse for positive discrimination, which some of us fear is happening?

Lord Kakkar: It absolutely would not. I would be confident that the approach that will be taken will be a fair and transparent appointment process with clear criteria; it will be a properly constructed process with tests to look at candidates' skills, and their ability, depending on what level they are joining the judiciary, to serve as a judge, be developed as a judge, have a career pathway, continue to serve and be retained in the judiciary, and that that particular merit provision will only be applied if there are genuinely two equal candidates.

Q32 Philip Davies: Finally, this process of equal merit applies only to race and gender. You mentioned at the start race and gender when it came to diversity. Where do you feel social background came into provisions of diversity? I have never quite worked out why it greatly enhances the diversity agenda to replace Rupert from Kensington and Chelsea with Jemima

from Kensington and Chelsea. What about having some more working-class people among the judiciary? Would that not do a bit more to enhance the diversity of the judiciary?

Lord Kakkar: Yes, these are issues that I would like to discuss with the commission, but, absolutely, I think diversity must be understood in the broadest terms. It is very important that citizens of all backgrounds have the opportunity to make their contribution to society, and that includes, if they have the correct legal qualifications, to serve in the judiciary. I believe that very strongly.

Q33 Philip Davies: When you report on your appointments, and maybe you report on gender and race, would you consider reporting on how many people came from a working-class background as well, as part of that reporting process?

Lord Kakkar: I would have to take advice. It is not a question that I have considered. I will have to take advice from my fellow commissioners on that matter.

Q34 Philip Davies: You are the chairman.

Lord Kakkar: I am not the chairman yet.

Q35 Philip Davies: No, but hopefully you will be. Presumably you will be taking a lead.

Lord Kakkar: I believe strongly that there should not be discrimination against people from any background in our country. How a commission should report on that basis, I have not thought about and I would like to report back on that, if I may.

Q36 Alex Chalk: Can I expand on the example that Mr Davies was giving, because I want to understand your answer? Suppose there are two equally qualified candidates and one comes from a so-called privileged background—whether it is Kensington and Chelsea matters not—and the other from a less privileged background. Are you saying that you would be minded to prefer the candidate from the less privileged background?

Lord Kakkar: No.

Q37 Alex Chalk: What are you saying?

Lord Kakkar: I am saying that at this stage I would like to ensure that candidates of all backgrounds are encouraged to apply to sit on the bench, and that we have an appointment process that does not inadvertently discriminate against people from different backgrounds in terms of the tests that are set and so on, so that everyone is given an opportunity to demonstrate their potential to serve as a judge. Then the selection panel will look at all the information they have and make an appointment on the basis of merit.

Q38 Philip Davies: Can I follow that up, because Mr Chalk has prompted me to do so? If we have what I still consider to be the rather mythical situation where you have two identical candidates—but bear with me—and one is a man from a working-class background, of which there are probably none or very few among the judiciary, and the other is a female from a privileged background, in effect you are saying that you will, based on those two equal candidates, prefer the female candidate from a privileged background rather than the male

from a working-class or non-privileged background, which would strike many people as being a rather perverse decision.

Chair: I don't think that is what Lord Kakkar said at all, Mr Davies.

Philip Davies: I am asking him the question, if you don't mind.

Lord Kakkar: Thank you, Mr Chairman. I am not saying that. I am saying that the provision exists. I would like to understand how the process works, I would like to understand how it has been used on previous occasions and I would like to take the view of fellow commissioners on their views about it and then reach a conclusion.

Q39 Philip Davies: Do you see there is a potential perversion in the—

Lord Kakkar: I do. This has been a very helpful conversation because it demonstrates the complexity of intervening on the basis of anything other than merit, and, therefore, as I said in my original statement to you, I am deeply wedded and committed, whether it is appointing a surgeon, appointing a professor or appointing somebody to the judiciary, to a simple single principle of appointment on merit.

Q40 Mr Hanson: By the very nature of the process, somebody who is going to apply to be a judge will have reached the stage of middle-class income and middle-class outcome, whatever their background. My interest would be whether or not you see it as the role of the commission to be leading aspiration for people who wish to aspire at the very beginning of their careers to join from a diverse or socially excluded background. There are not many people from the council estate where I grew up who are now High Court judges. They could have been potentially, but no one ever encouraged them to do that.

Lord Kakkar: You make a very important point. In my own profession of medicine, if I think back to when I was a medical student, among the consultants—the professors—in the hospitals where I trained there was not great diversity of background, but there has been a huge emphasis on encouraging people to come to medical schools from very different backgrounds. As a result of that, we are seeing quite a change in the profession, quite a change in the professional leadership, and many of the Royal College presidents we have now are lady members of our profession. I agree that there is a hugely important role on aspiration. I do not know how much resource and time the commission has available, but it is certainly something that I would be deeply committed to and, working with the other elements of the justice system, I would try to encourage people from as diverse a background as possible to be developed, to be given the opportunities to compete successfully to enter the judicial profession, and then, I think very importantly, to be given the support to be developed so that they have long-term successful careers.

Q41 Victoria Prentis: One way in which you might do that is through the media, and one of the requirements for the post is that you will be available to do media where necessary. Do you have much experience of that?

Lord Kakkar: I have some, in the other roles that I have undertaken. I would be happy to do it and, of course, to take advice from others who have done it very successfully to develop myself in that area.

Q42 Richard Arkless: Before I move on to discuss the triennial review, I have a quick question on diversity. Are you aware of the gender balance in the JAC appointments year on year? Do you know how many are women and how many are men?

Lord Kakkar: Yes, it has gradually increased. I do not have the exact figure, unfortunately, but it has been increasing. I have looked at those figures.

Q43 Richard Arkless: Despite your steadfast focus on a meritocracy, is gender balance something you have given any thought to?

Lord Kakkar: Yes, it is. I have looked at it in terms of trying to understand how one can attract more highly qualified female candidates to make application to join the judiciary. In the conversations I have had so far, the points that have been made to me are to consider some of the working conditions that judges have and how those might be altered to make it more attractive to retain female members and therefore have them apply in the first place to join the judiciary. One other point that I have come across in my reading is that the way the process is conducted and the tests that are set tend to favour those coming from the background of a barrister rather than a solicitor, and it may be possible to attract more female candidates from a solicitor background. There will also need to be the ongoing conversation, which I know has taken place in the judicial profession, about the pool being determined by the profession, so if they are not making appointments of barristers in chambers or solicitors to senior positions in companies, those female members will not exist to offer themselves for judicial appointment.

Q44 Richard Arkless: Thank you. Have you read, thought about and considered the triennial review into the JAC published in 2005? Have you had a look at it?

Lord Kakkar: The 2005 review?

Richard Arkless: Yes.

Lord Kakkar: No, I have not looked at the 2005 review.

Richard Arkless: Apologies, 2015.

Lord Kakkar: Yes, I have had a look at that, and, in general, there was a view that the JAC is doing reasonably well

Q45 Richard Arkless: Yes, it seemed to be positive. One recommendation was that there was scope for expanding its functions to include promoting the rule of law internationally, to have a role in promoting international and overseas territorial appointments, and appointments that are not constitutionally judicial but judicial in nature. Would you welcome such an expansion?

Lord Kakkar: It is a very interesting idea and it would provide an opportunity for the JAC to generate income, so in that regard, yes, it is positive, but I would need to understand what the impact would be of taking on all that work, in terms of our principal role of supervising a judicial appointments process for England and Wales.

Q46 Richard Arkless: The triennial review also recommended the need to develop performance metrics to measure properly the effectiveness of the candidates recommended by the JAC. Do you agree with that too?

Lord Kakkar: I was reading that in the letter that the outgoing chairman of the JAC wrote to the Lord Chancellor, and I think it is important. For a number of reasons, without making it excessively bureaucratic, having appraisal of judges would be a good thing because it would allow objective assessment of their performance, and as they moved through the judicial profession that could provide an awful lot of information to inform further promotion to different levels of being a judge. It would also provide an important metric for judging the success of the JAC, but I would need to understand how it could be done effectively so that it was not a tick-box exercise but rather provided meaningful information that would help inform those two areas.

Q47 Alex Chalk: One of your duties, if you are successful, will be to join selection panels for the most senior and/or sensitive appointments, alongside other commissioners. Just so that we are clear, that could mean, for example, a judge who becomes a Law Lord in the Supreme Court—someone who may have been a recorder, a High Court judge, a Lord Justice of Appeal and then becomes a Supreme Court judge. What do you think you will be asking someone in that situation at that kind of interview?

Lord Kakkar: I would want to be clear that I understood their approach to the discharge of their professional obligations. Clearly there would be a record of how they had performed in those different judicial roles, but I would want to be clear that they had strong values and integrity. I would wish to test that they had a deep commitment—at that senior level one would expect to see it—to the rule of law, to justice. I would want to understand the approach they took to discharging their professional responsibilities, and the consistency with which they did that. I would also want to understand from professional members on the appointment panel the quality and the consistency of the technical work of being a judge in the judgments that they had reached.

Q48 Alex Chalk: You would go through their record, the decisions they had made—

Lord Kakkar: No, I would not do that. That would be something for the technical members; the other judges who sat on the panel would be able to provide insights into, let us say, the quality of their professional approach to being a judge.

Q49 Alex Chalk: You would limit yourself perhaps to asking questions about their integrity and their commitment to the rule of law.

Lord Kakkar: On commitment to the rule of law, I would want to understand how they organise themselves and how they go about their work. I would want to understand broader issues about their sense of and approach to the role that the law plays, the relationship between the senior courts and Parliament and so on.

Q50 Alex Chalk: Right. Is that not something that is taken as read if they have become a Lord Justice of Appeal—that they are committed to the rule of law and they understand the relationship between Parliament and the courts?

Lord Kakkar: Yes, they are all important issues, but I think it is very important to test them and then test the conversation that arises.

Alex Chalk: Very well.

Q51 John Howell: What relationship would you like to see between yourself and this Committee?

Lord Kakkar: I would like to see a close relationship. This is the Committee to which the JAC answers and is held accountable by Parliament. I would hope to be able to return on a regular basis to talk to the Committee about the work of the Judicial Appointments Commission, to inform the Committee about any concerns or anxieties that we have in the commission and to seek guidance and advice by way of the recommendations and reports that you write that could and will form an important basis of the work that the commission takes forward.

Q52 John Howell: Thank you for that. I have one last question. Are there any other matters, either concerning your candidature or the priorities for the commission that you would like to tell us about? It is an open question.

Lord Kakkar: My own personal priority would be to spend time intensely at the beginning understanding the breadth of the problems, understanding the role that the chairman of the commission would play, coming back to Mr Chalk's point, in the most senior judicial appointments, understanding the complexities of judicial appointment and understanding too the constraints and challenges that the commission itself faces, but, most importantly, getting to grips with the need to appoint new commissioners after those whose terms are rapidly coming to an end in early 2017.

Q53 Chair: Thank you. I take it from that, Lord Kakkar, that if you were to be appointed you would be happy enough to come back to this Committee in perhaps, let us say, six months' time or so and give us an overview as to the assessment you have made once you have been able to fill yourself in, for want of a better term.

Lord Kakkar: Yes, I would be delighted to.

Q54 Chair: Do any other members have any questions of Lord Kakkar? No. Lord Kakkar, thank you very much for your time, for giving evidence and for answering our questions frankly. As you know, the process now is that we will consider our report, which we will produce as swiftly as possible—I am sure you are conscious of that—and you will have sight of it. Thank you for your time.

Lord Kakkar: Thank you.



HOUSE OF COMMONS