



**Name of applicant:** Professor Robert Hazell

**Application ID:** AH/H039554/1

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#### **A. Quality and Importance**

The project proposed is a fairly large scale investigation into the conceptions of judicial independence, setting this against the challenge of judicial accountability. The project focuses on how independence works, and how it is understood, in large measure by participants in, or very near, to the judicial process itself. It is not concerned with wider societal legitimacy questions, but take an essentially internal perspective upon the question. The project itself is outlined in clear terms, allowing the reviewer a good insight into what its objectives, etc. are, how the work will be carried out, and what the likely results, both in terms of publications and other dissemination efforts and in terms of insights and new knowledge and understanding. The project will combine literature analysis with interview data and a programme of practitioner seminars with high profile participants which will be simultaneously part of the dissemination dimension of the project, whilst also feeding iteratively back into research itself, in so far as they will explore some of the key questions which the research team have posed for themselves. The project team appear to have secured the very high level access which is necessary to carry out such a project, although this is unsurprising given who they are and what their track record is. Even so, a risk analysis of what would happen if the anticipated 70 interviews proved impossible to obtain or failed to generate sufficient material should be undertaken. One other area where the proposal could be improved would be if the applicants provided a fuller statement of how the material expected to be generated by the interviews will be related back to the research questions.

#### **B. People**

The team is outstanding, comprising two leaders in the field (Hazell and Malleson) who have complementary skills and backgrounds, plus one early career researcher who has a very good track record hitherto. The applicants have a very good record of obtaining and managing research funding, securing excellent outputs. Malleson in particular has an excellent track record of individual and collective publications of the highest quality. Hazell is particularly known as a communicator, and to that end his work was recognised by the PSA in 2009. They cross the law-politics bridge between them seamlessly. I would anticipate that they have the ability to complete this project to a very high standard within the timescale envisaged.

#### **C. Management**

The project structure as envisaged is reasonable simply and seems quite feasible and fit for purpose. Given the back up the team will receive from the resources and expertise of the Constitution Unit, one would expect the applicants, along with their research and

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administrative staff, to be able to deliver the project without too many difficulties. More information on the expected career benefit that might accrue to the researcher employed would be useful and appropriate.

#### **D. Outputs and Dissemination**

This element of the proposal should attract praise, as it has been well thought through and seems very likely to result in a project with high impact. This is unsurprising given who the applicants are, and given their connections, and it would seem that all of the elements have been put in place to ensure that this is a high visible project with as much impact as it would be reasonable to expect an academic project to have. Of course this proposal is all about the internal perspective on judicial independence, and consequently is less likely to turn up the types of results which the likely research users would find hard to accept. Within those more limited parameters, however, a high grade for impact and dissemination is well deserved. The nature of the proposed book, however, and its contents and relationship to the research could be more strongly specified. Non academic outputs are excellent.

#### **E. Value For Money (Not applicable to Research Leave)**

This is a sizeable project and a sizeable budget, but it seems fairly budgeted. The amount of PI and Co-I time proposed is reasonable in the circumstances. Some elements, such as budgets for delivering papers at conferences seem, if anything, underbudgeted.

#### **F. Strengths and Weaknesses**

This is an extremely strong proposal which is fully deserving of support and of funding. The weaknesses which I have identified do not go to the fundamental elements of the project which has been well worked out and would - if funded - be delivered upon. This is, in essence, an insiders' perspective on the question of judicial independence and the relationship to judicial accountability and within that limited framework it offers the prospect of outstanding outcomes. The strengths are the quality of the team, and the access which has been secured which will ensure that this is a project that really will tell us something more than previous projects on judicial independence and that we will be offered a thoroughgoing study of one polity.

Two other areas which the applicants could usefully elaborate upon further would be whether they have sufficiently embedded the devolution dimension (as part of the rethinking of the UK's constitutional framework) as well as the distinctions between the UK's separate legal and judicial systems into the proposal, and whether the non-London based representation is strong enough in the Advisory Board.

#### **G. Additional Information**

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#### **A. Quality and Importance**

This project raises an interesting set of questions and the applicants correctly identify the importance of the research at this particular moment in time when these issues are being worked through. There is also potential for high impact, although I found the impact summary less than clear as to how this would take place (the impact statement being rather more fulsome in this respect). I do however have some significant reservations about this project \*\*\*:

- (i) The case for support makes some play for the significance of theoretical innovation. However, what counts for "theory" in the case for support is extremely low level beyond two relevant points - multidisciplinary and the relevance of a through investigation of a nation state. If this is what counts for theoretical innovation, I fear for the field.
- (ii) The most significant aspect of the project relates to the 70 interviews to "... understand how different actors define judicial independence and accountability, and the day to day contexts in which they arise". We are provided with no sampling strategy (although we are told that Scotland and Northern Ireland will be incorporated) beyond lists, no method of analysis. We are told that the interviews will be semi-structured but we need to know more than this - how will they be semi-structured eg will the researchers use vignettes or real case examples or what? The interviews are said to last one hour each - will that be enough time to deal with the depth of the issues?
- (iii) We are told that there are no ethical issues involved in the research beyond confidentiality. I just do not accept that (eg data protection and retention, anonymity [wouldn't that be quite important to these potential research participants], the researchers say they know many of the interviewees, and just basic ethics of research amongst team members). I am concerned that insufficient attention has been given to this issue, perhaps stimulated by the lack of space on the Je-S form given over to such issues.
- (iv) My final concern is whether the applicants have really chosen the right method, a point which is stimulated in part by the failure to dig down into the theoretical issues in the project. I accept that semi-structured interviews with key personnel will deal with some of the issues raised but the real gap in the research is caused by the ways in which these work in the mundane, everyday practices of relevant courts. Would not observation research be better matched with the emphasis on the day to day in the research questions?

#### **B. People**

I have every confidence in Hazell, Malleson and Gee, but I do have concerns about the RA and this does not just go to the management of the RA. I would have liked to have seen more about why this person will be appointed at SP29 given the significance of the tasks

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expected of them.

### **C. Management**

The project is weak on internal management of the research team and, in particular, on the management of the RA's development through the life-cycle of the project. This is most unfortunate. I would have thought that monthly meetings of the project team would have been ideal for such a project with perhaps greater frequency at the outset of the interviews, particularly bearing in mind the need for uniformity of style etc. The actual project plan seemed appropriate, indeed, quite leisurely, but that is just as important. There is an advisory group proposed of the great and the good, but what is the purpose/added value of such a group in terms of the management of the project?

### **D. Outputs and Dissemination**

The outputs are very good and the impact statement dealt with the issues well (as opposed to the summary). It is clear that the project team have strong relationships with the senior players and, no doubt, the advisory group would play a role in assisting with this process.

One ethical consideration relates to the use of the interview data in the outputs - to what extent will the interviewees have any say over the use of their data? will the interviewees be entitled to read over their transcripts and correct them?

### **E. Value For Money (Not applicable to Research Leave)**

Bearing in mind the flaws identified in other parts of this form, I cannot say that this project will offer value for money.

### **F. Strengths and Weaknesses**

\*\*\*The topic is interesting and important and the potential impacts are significant, but this means that the research should have a proper methodological base. I do not think that it has. One final point, given the digital resource to be created - shouldn't the applicants have completed a technical spec?

### **G. Additional Information**

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#### **A. Quality and Importance**

This project addresses a fundamental aspect of the British constitution which has not been thoroughly studied in recent years. The time is indeed ripe for a thorough investigation of the important issue of judicial independence. This principle is often asserted as a basic feature of "free" or "democratic" states, but exactly what it means and how it is delivered in practice are topics well worthy of exploration, especially in the light of the many constitutional changes of the last decade and a half, changes affecting fundamental aspects of our constitution but lacking a clear coherence or unifying principle. The other side of the coin is that of accountability, which perhaps deserves even more emphasis in the theoretical aspects of this project. With greater litigiousness and the legal protection of human rights turning an ever-wider range of circumstances into ones where there are legal disputes to be resolved, the need is all the greater to ensure that the necessary protection of judicial independence does not inadvertently create a cover for unacceptable judicial high-handedness or disregard for political decision-making.

There has not been a recent detailed examination of the questions posed by this project in the British context and the methods proposed for this project are wholly appropriate for identifying and analysing the key issues, ideas, rules conventions and practices involved. A particular strength is the recognition of the importance of the background issues of organisation and resourcing in securing the position of the judiciary; as is stated, what is happening to ensure that things run smoothly most of the time is as important as what happens when things occasionally attract attention or go wrong.

There are, however, two slight reservations, not as to the quality of what will be achieved but on whether the aims perhaps need to be slightly more narrowly described. The project does make reference to the position in Scotland and Northern Ireland, but its focus seems to lie mainly in London and it is not clear how the same level of scrutiny is to be provided across all UK jurisdictions without a substantial number of interviews with politicians and civil servants in the devolved areas. Similarly, the focus is on high level issues, yet it is at the lower levels of the judiciary (including tribunals) that many of the issues of mis-behaving judges, and hence the operation of disciplinary structures, have arisen and where the perceptions of "how not to blot one's copybook" to get on the first rungs of the judicial ladder may be significant. These issues are not being ignored, and it would not be possible for a single project to tackle these fully without being significantly increased in scale, but these elements might be more explicitly recognised as ones where a lighter touch is being applied and where there will be scope for more detailed research subsequently building on the findings of this project.

#### **B. People**

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The team of researchers is exceptionally well-qualified and well-connected. They have a very strong track-record of high level work in this field and of delivering major projects of this sort. In particular, the reputation and expertise of the lead researchers and the connections built up through previous work make them uniquely well-placed to gain access to the top level of judges, politicians and officials that this project demands. Similarly their connections and reputation place them in a position where the results of their work will achieve a high profile within government and judiciary, among the academic community and in the media. The background support of the Constitution Unit at UCL and a well-chosen Advisory Committee will also ensure that good progress is made throughout.

### **C. Management**

The project plan matches the aims that have been set. The desk-work, interviews, wider engagement and dissemination activities are all suitably weighted and represented in the plans, with the researchers' reputation enabling them to avoid some of the frustrating delays that can be involved in arranging interviews with senior figures such as is proposed. The overall timetable presents a realistic plan for achieving the various elements of this project. The series of events provide a clear incentive for consistent progress throughout the project while the Advisory Committee will ensure a more reflective assessment of what has been and needs to be done. The reporting and conference plans will also ensure steady momentum and the sequence of academic articles proposed shows a sound building up of the study, developing from the theoretical background to take account of the more detailed and practical findings of the study. The statement on ethical issues seems rather brief in view of the sensitive nature of some of the issues being covered, of their relationship to rules on freedom of information and the release of public records and of the position of some interviewees as civil servants. On the other hand, the lead researchers have a long-track record of successfully completing studies of this nature and are well tuned to the sensitivities involved, so that this can be regarded as a matter of expression rather than a cause for concern.

### **D. Outputs and Dissemination**

This project has ambitious plans for its impact, but ones that are fully thought out and realistic in view of the nature of the project and the reputations and experience of the lead researchers. Different styles of communication are necessary for the different audiences to whom this work is relevant and the project astutely identifies and plans for these. As is identified, the independence of the judiciary is not just a question for academic political scientists and lawyers, but one of vital importance to the judiciary, the political and professional arms of government, legal professionals and the public at large. Each of these is given consideration, combining solid academic output with more "journalistic" activities and a series of prestigious events to engage with a range of professionals.

### **E. Value For Money (Not applicable to Research Leave)**

The main elements of this project are what one would expect to see for a project of this nature, in terms of nature and scale. Research assistance of the sort requested is essential and supported by an appropriate element of senior academic time, and the administrative support is necessary to deliver the number and scale of events planned. The budgets for travel, events and meetings seem reasonable and fit the project's goals. These are of minor importance in view of the soundness of the major elements, but there are three elements that I have not previously seen in research applications and two of which seem unusual:

- separate copy editor for the book, which in my experience is a task done by authors or

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publisher

- subscriptions to journals, which I would have expected to be accessible electronically at the institutions involved
- press officer; although I have no experience of a research project with this feature and cannot judge the scale of contribution intended, this element seems appropriate for the ambition of this project in ensuring that its work reaches a wide audience, many of whom operate in environments where communications are generally channelled through professional agents.

## **F. Strengths and Weaknesses**

Strengths:

- exceptionally experienced and well-connected lead researchers
- issue of major importance in need of study in the light of recent constitutional changes
- high relevance to wide range of people: academics, politicians, government, judiciary, lawyers, public
- well-thought out plans to communicate appropriately with all of these audiences
- well-designed project, matching the research questions and making use of the researchers' past experience and connections
- strong series of events to ensure progress and continuing engagement with wider range of people

Weaknesses:

- need to be more explicit on balance of focus on high-level issues in London as opposed to equal coverage across all levels and all parts of UK
- slight uncertainty over some minor costs and the way in which ethical issues are expressed

Overall a project of the highest quality exploring a topical issue of major constitutional significance from a team exceptionally well-placed to carry out the work and with well-thought out plans to deliver to a wide range of audiences.

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