



Judicial Appointments Commission

Welsh Language Scheme

2017–18 Annual Monitoring Report to the Welsh Language Commissioner

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1. Introduction

This is the second Welsh Language Scheme Annual Monitoring Report prepared by the Judicial Appointments Commission (JAC) covering the period from **1 April 2017 to 31 March 2018**. It demonstrates the progress we have made in implementing our scheme since it was endorsed by the Welsh Language Commissioner's Office in May 2016. The scheme is available on the JAC website: <https://www.judicialappointments.gov.uk/welsh-language-scheme> and <https://www.judicialappointments.gov.uk/cynllun-iaith-gymraeg>

The JAC was previously covered by the Ministry of Justice's Welsh Language Scheme. We developed this voluntary, specialised scheme to better specify how we treat the Welsh and English languages. It explains how candidates for judicial appointment can communicate with the JAC in Welsh or English, according to their personal choice.

The scheme sets out how we give effect to the principle in Section 5 of the Welsh Language Act 1993 that, in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on a basis of equality. The scope of our commitments should be interpreted as applying to those recruitment activities and services in Wales that we are able to control or influence.

2. Background

The JAC is an executive non-departmental public body sponsored by the Ministry of Justice. We select candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals with UK-wide jurisdiction. Candidates are selected on merit, through fair and open competition, and we are committed to attracting applicants from as wide a field as possible. We work with a range of organisations to promote vacancies to eligible candidates.

The JAC Commission Board approved the draft Welsh Language Scheme in September 2015, which we took to public consultation. The consultation went live on 9 October 2015, and was formally announced by the former JAC Chairman Christopher Stephens and the JAC Commissioner with responsibility for Wales, Professor Noel Lloyd, at the Legal Wales Conference 2015. Responses to the consultation indicated strong support for a JAC-specific Welsh Language Scheme. Many responses offered drafting improvements and suggestions for refinement, and the JAC's consultation response explained how the responses shaped the policy.

3. Recruitment

The JAC is a London-based organisation of around 60 staff. It does not have a permanent delivery presence in Wales. The JAC's Welsh Language Scheme does not cover JAC staff recruitment as there are no identified Welsh language requirements for staff.

Where Welsh language skills are required for a judicial appointment, we have access to 2 Welsh-speaking panellists within our lay panel member cadre who sit on selection exercise panels. They are joined by Welsh-speaking members of the judiciary who are allocated to the JAC as required to sit on selection panels. Selection exercises where Welsh language skills are required are quality assured by Professor Noel Lloyd, who is a Welsh speaker.

Welsh criteria questions

An additional selection criterion is applied for vacancies in Wales. The criterion is approved by the Lord Chancellor and states:

“Candidates for posts in Wales need to have an understanding, or the ability to acquire the understanding, of administration of justice in Wales, including legislation applicable to Wales and Welsh devolution arrangements.”

Where candidates have applied for posts in Wales, a number of questions that are specific to each exercise are asked at the interview stage, with candidates assessed on their knowledge of relevant Welsh issues.

Selection exercises 2017–18

The JAC reports annually on the number of exercises completed within a reporting year.¹ The Welsh language scheme was implemented in May 2016 and was applied to selection exercises that went into planning stages from that time. This section details selection exercises that completed and reported from **1 April 2017 to 31 March 2018** to give an overview of judicial recruitment in Wales.

Twenty-eight selection exercises were finalised and reported in 2017–18. The business area and the judiciary identify Welsh language requirements for vacancies, which the Judicial Appointments Commission assesses. Of these exercises:

- Welsh language was an essential requirement for one post in the selection exercise for District Judge (Civil). Language competence was tested in the case of those candidates who had applied for the Welsh language position was, as well as the candidates' knowledge of the administration of justice in Wales. The national exercise launched on 20 June 2017 with 100.5 vacancies overall, one of which required Welsh language. 14 selected candidates were successful in the knowledge requirements for posts in Wales, with 3 of those assessed as suitable for the vacancy with the Welsh language requirement

¹ <https://www.judicialappointments.gov.uk/jac-annual-reports>

The JAC continues to run selection exercises where Welsh language has been identified as a requirement for one or more posts. In this year, exercises which have a Welsh language requirement include Deputy District Judge, Recorder, Deputy District Judge (Magistrates Courts), and Salaried Employment Tribunal Judge. We anticipate there will be further posts in the near future.

The following selection exercises identified vacancies in Wales that did not have Welsh language requirements but tested candidates' knowledge of the administration of justice in Wales:

- **Recorder:** a national selection exercise which launched on 1 February 2017 with 150 vacancies overall. 16 of the selected candidates were successful in meeting the requirement for Welsh posts
- **Circuit Judge:** A national selection exercise which launched on 23 March 2017 with 116.5 vacancies overall; 10 of the selected candidates were successful in meeting the requirement for Welsh posts
- **Salaried Judge of the First-tier Tribunal:** a national selection exercise which launched on 10 May 2017 with 65 vacancies overall; 5 of the selected candidates were successful in meeting the requirement for Welsh posts
- **Fee paid Legal Members of the Special Educational Needs Tribunal for Wales:** the selection exercise had 4 vacancies and launched on 5 September 2017; 4 candidates were selected
- **Chairperson of the Agricultural Land Tribunal for Wales:** a singleton post, the selection exercise launched on 2 November 2017; one candidate was selected

The following selection exercise identified vacancies in Wales that did not have Welsh language requirements, and did not test candidates' knowledge of the administration of justice in Wales:

- **Legal Member Mental Health Review Tribunal Wales – Restricted Patients Panel:** the selection exercise had 5 vacancies and launched on 12 September 2017. There was no Welsh language requirement. This was a highly specialised role, and the additional selection criteria were particularly restrictive, enabling only candidates with Recorder experience to apply. In light of the high standard of skill and experience required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected 5 candidates

Section 83 of the Government of Wales Act 2006 allows the Welsh Government to seek assistance from other public bodies. The JAC assisted the Welsh Government for the following exercises:

- **Deputy President Adjudication Panel Wales:** a singleton post, the selection exercise launched on 5 September 2017; one candidate was selected
- **Fee-paid President Residential Property Tribunal Wales:** a singleton post, the selection exercise launched on 25 April 2017; one candidate was selected

4. Monitoring the Welsh Language Scheme

Selection exercises

The JAC's Welsh Language Scheme applies to selection exercises with posts in Wales that went into planning stages on or after May 2016. External advertising is only used by the JAC in exceptional cases. The advertising section of our Welsh Language Scheme outlined provisions for any cases in which external advertising was used. No external advertising was used for selection exercises in Wales for 2017–18.

In the previous Annual Monitoring Report 2016–17 it was reported that development of the JAC's IT system has been put on hold due to a significant IT failure in February 2017, and that Welsh language development would be deferred.

Over the period 2017–18 we published Welsh translations of selection exercise material in the following exercises:

- 062 District Judge Civil – launched **20 June 2017**
- 071 Fee paid Medical Member of the First-tier Tribunal, Social Entitlement Chamber – launched **3 August 2017**
- 058 Fee-paid Legal Members for the Special Educational Needs Tribunal for Wales – launched **5 September 2017**
- 077 Chairperson of the Agricultural Land Tribunal for Wales – launched **2 November 2017**
- 055 Fee-paid Medical Members of the First-tier Tribunal, Health, Education and Social Care Chamber (Mental Health); and Fee-paid Medical Members of the Mental Health Review Tribunal for Wales – launched **23 January 2018**
- 090 Deputy District Judge 2018 – launched **1 March 2018**
- 088 Circuit Judge 2018 – launched **15 March 2018**

The JAC Welsh Language Scheme sets out that we will advertise positions that require working in Wales on JAC online media bilingually. However, there were 4 selection exercises with posts in Wales that launched without a Welsh language advert:

- Salaried Judge of the First-tier Tribunal
- Legal Member Mental Health Review Tribunal Wales (Restricted Patients Panel)
- Fee paid First-tier Tribunal Judge
- Fee paid Drainage Members, Agricultural Lands Tribunal, Wales

Although these exercises launched over the 2017–18 reporting period, the planning of the exercises began in the transition period around the time that the JAC Welsh Language Scheme was published and implemented. Following implementation, our planning templates have now been firmly established. Welsh translations are considered early in the process at

the initial planning meeting, when the selection exercise team constructs the timeline, and at later project review meetings.

No public consultations were conducted over 2017–18. The JAC did not receive any formal complaints made in respect of the Welsh Language Scheme.

The Welsh Government received one inquiry from a candidate into the operation of JAC's Welsh Language Scheme in respect of the exercise **Fee-paid Deputy President, Adjudication Panel Wales** from a candidate in that exercise.

The JAC confirmed to the Welsh Government that as that selection exercise was open to only existing members of the Adjudication Panel Wales, there was no advertisement to translate. Welsh language was not required for the exercise, therefore under the JAC Welsh Language Scheme provisions, no Welsh language selection exercise material was provided. The JAC did accept and process an application form in Welsh for this selection exercise, and at the request of a candidate, conducted an interview in Welsh.

Progress against action plan

The reporting standards previously established for the JAC Welsh Language Scheme will remain the same over 2018–19: availability of the Scheme, advice and guidance, digital capability, new and revised policies, and monitoring and review.

Updates to the action plan over 2017–18 are in **bold** on page 9.

Theme and reference	Activity	Target date	Progress	Status
Availability	Publish the Scheme on the JAC website and intranet	March 2016	Consultation to open October 2015 and close December 2015, for JAC response in March 2016	Complete – publication delayed by the pre-election period for the National Assembly for Wales 2016 election, and published on 23 May 2016.
Advice and guidance	Develop internal guidance to accompany policy including assessment of language skills and knowledge of divergence in law, devolution arrangements etc.	March 2016 initial publication Review of relevant policy documents ongoing	Complete Ongoing	Complete – guidance available to all staff from March 2016 A training session was held for operational staff in April 2016 prior to implementation. Training on the Welsh Language Scheme delivered to new staff intake June 2018
Digital capability	Develop Judicial Appointments Recruitment System (JARS) to include a Welsh language online application form	Ongoing	Deferred	Deferred – the JAC is currently undertaking a review to assess its future technology needs.
New and revised policies	Consider the impact of new and revised policies in the Welsh Language Scheme	Ongoing	Implementation will be monitored on an ongoing basis	Ongoing – candidates are now able to provide any narrative section in a qualifying test in Welsh, which is then translated.
Monitoring and review	Prepare an Annual Monitoring Report for the Welsh Language Commissioner which will be made available Commission Board and Executive; MoJ Welsh Language Co-ordinators, MoJ Sponsorship and Welsh Liaison Judge	Annual		Complete – Annual Monitoring Report 2016–17 published October 2017 Annual Monitoring Report 2017–18 published November 2018

5. The Welsh Matters Committee

The Welsh Matters Committee is a sub-committee of the JAC Commission Board. It is chaired by the JAC Commissioner with responsibility for Wales, Professor Noel Lloyd. The founding committee members were JAC Commissioner (judicial) Mrs Justice Philippa Whipple and JAC Commissioner (professional – barrister) Martin Forde QC. In July 2018, Brie Stevens-Hoare QC replaced Martin Forde QC.

The Committee was formed following a meeting between the First Minister of Wales and the Chairman of the JAC, Rt Hon Professor Lord Ajay Kakkar, along with Professor Noel Lloyd. The inaugural meeting of the Welsh Matters Committee was held on 9 March 2017, and the Committee sits every other month.

The primary purpose of the Committee is to monitor the potential impact of devolution in Wales on the appointments process for judicial posts across England and Wales, and to ensure that the Commission is aware of the needs of Wales.

Over the reporting year, the Committee has:

- welcomed representatives from the Welsh Government to review the arrangement between the JAC and the Welsh Government to deliver selection exercises for Welsh Ministers
- overseen the publication of the JAC's first Annual Monitoring Report on its Welsh Language Scheme
- tracked the developments of the Wales Training Committee to make sure the JAC testing of Welsh knowledge takes account of the Judicial College's work in dealing with the training implications of devolved legislation
- monitored the delivery of selection exercises in Wales

The Welsh Matters Committee has responded on behalf of the JAC to the following consultations that may affect the Welsh legal landscape:

- Consultation of the Counsel General for Wales
- Commission on Justice in Wales' call for evidence