



Post selection day Evaluation and Feedback Report

**138 Deputy Judge of the Upper Tribunal Immigration
& Asylum Chamber**

October 2019

Purpose

The purpose of this report is to provide an evaluation of the selection days for 138 Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber as well as capture general feedback on candidate performance. The report describes how selection days were undertaken by both panels and candidates; including what characterised stronger and weaker demonstrations of the competencies needed to fulfil the requirements of this role.

Competency Framework

At selection day, the situational questions and the interview questions were designed to assess the following competencies:

- Exercising Judgement
- Possessing and Building Knowledge
- Working and Communicating with Other
- Assimilating and Clarifying Information
- Managing Work Efficiently

The assessment criteria were developed so that candidates could demonstrate the proficiency and capability transferable to the role from other contexts. The specific behavioural indicators under each competency were designed to reflect the aptitude and faculty that an effective Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber is expected to have. This enabled us to assess candidates in a fair and consistent way.

Performance of Candidates

A total of 312 candidates applied for this exercise. Following the qualifying test and online scenario test, 52 were invited to selection day. A total of 17 candidates were recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment. In making this decision the Commission took account of relevant character checks, statutory consultation comments and all evidence provided by the candidates at selection day, the candidate's independent assessments and their self-assessment. A total 35 candidates were graded as not selectable.

Selection day

Situational Questions

The situational questions were drafted by two Upper Tribunal Judges. The situational questions were designed to assess relevant transferable skills and to minimise the extent to which candidates might be advantaged or disadvantaged by their professional background. The JAC Advisory Group, which is composed of members of the judiciary and representatives of the legal professions and chaired by a lay JAC Commissioner, offered advice and guidance during their development.

In common with all assessment tools used by the JAC, both the situational questions and the panel guidance were subject to an extensive quality and equality assurance processes. This included review by our Diversity and Engagement team, the JAC Advisory Group and Policy and Equality and Fair Treatment Team.

The effectiveness of the situational questions was assessed by means of a dry run with a range of volunteers from relevant candidate groups. This provided an opportunity to trial the

test material and make any necessary amendments. The candidate pre-reading material and the range of candidate responses were also considered.

Structure of Situational Questions

There was one written scenario with a series of detailed questions. Candidates were asked to assume the role of a Deputy Judge of the Upper Tribunal of the Immigration and Asylum Chamber and to consider a scenario of what may typically be encountered by holders of this post.

The scenario involved two nationals currently residing in the UK and appealing a decision to be returned to their country of origin in the Southern hemisphere. An appeal had already been heard by the First-tier Tribunal and rejected on some of the grounds but a decision to appeal against the human rights findings was granted. This resulted in the appeal being listed before the Upper Tribunal. Candidates were required to provide answers to five questions. These questions involved them considering the errors of law as well as grounds of challenge and appeal.

The scenario and questions were designed to test the competencies of Exercising Judgement, Assimilating and Clarifying Information, Possessing and Building Knowledge and Managing Work Efficiently.

Advance Preparation

On the selection day candidates were provided with a copy of the Immigration Law Handbook to familiarise themselves with the relevant Acts, Immigration Rules, and Procedure Rules during their 45 minutes preparation time.

Assessment of candidate responses to the situational questions

The performance of the candidates was measured against the requirements of the competency framework and the situational questions within the scenario. The selection panels assessed the performance of each candidate and scored their ability to analyse the various merits of the appeal. They were also assessed by the depth and quality of their analysis and the ability to identify some or all the possible answers.

The evidence for each competency was assessed as either outstanding, strong, sufficient or insufficient. The panels then made a final overall assessment of candidates as either outstanding, strong, selectable or not presently selectable.

Outstanding evidence included:

- Identification of all points in relation to an error of law and understanding of the issues such as perversity, irrationality, lack of reasoning, material misdirection of law, procedural irregularity, mistake of fact
- Identification of all the grounds of challenge to asylum and human rights decision
- Addressing all the issues in relation to the appellant's additional ground and the lack of a decision on the renewed application
- Consideration of the more detailed points such as the lack of reasoning and what the judge previously said about the evidence

- Well-reasoned and structured response to the questions, linking responses to relevant legislation

Strong evidence included:

- Identification of most of the points raised by the questions on the error of law and grounds of challenge
- Omitting one or two issues in relation to the appellant's additional ground and the lack of a decision on the renewed application
- Identifying most points of concern

Sufficient evidence included:

- Identification of a few of the points raised by the questions
- Identify some issues in relation to the appellant's additional ground and the lack of a decision on the renewed application

Insufficient evidence included:

- Failure to identify the points raised by the questions

Competency Based Interview

Each candidate then had a competency-based interview. Here the panel was seeking further evidence and examples from the candidate of the required competencies and in the context of the role of a Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber. The panel drew upon evidence provided in the candidate's self-assessment, career history and independent assessments, to inform their questioning.

Exercising Judgement

Outstanding evidence:

- Clear demonstration of excellent decision making with a high level of complexity
- Consistently excellent information demonstrating ability against the criteria
- Decision making in new areas or within complex and challenging circumstances, demonstrating fairness and independence of mind

Strong evidence:

- Examples involved considerable complexity and legal challenge, in the context of decision making required by a Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber
- Evidence of dealing with more complex areas of the law
- Evidence of weighing conflicting issues and information
- Evidence of reaching a fair decision where the outcome is unclear

Sufficient evidence:

- Examples that demonstrate decision making in a context relevant to the post

with similar challenge and complexity

- Demonstrating objectivity and independence
- Evidence of reaching a fair decision
- Some demonstration of complexity and challenge

Insufficient evidence:

- Examples lacking clear decision making
- Situations limited in the level of challenge or legal complexity
- Lacking confident and well-reasoned decisions

Possessing and Building Knowledge

Outstanding evidence:

- Substantial knowledge of own field including most complex and challenging areas
- Demonstrating a clear ability to develop and apply knowledge of complex law in wide ranging situations
- Evidence of the ability to develop knowledge in complex areas of own field or in an unfamiliar or new area of law
- Advises other legal professionals

Strong evidence:

- Proactive about extending knowledge in own field and new and unfamiliar areas of practice.
- Developing knowledge of a complex area of immigration and asylum law which was applied and effectively explained to others.

Sufficient evidence:

- Sufficient knowledge of immigration and asylum law to meet requirements of the post
- Keeps up to date with professional information as required
- Ability to develop knowledge and understanding of immigration and asylum law

Insufficient evidence:

- Evidence of considering immigration and asylum law, but no specific reference to this area of law
- Little, or limited knowledge of immigration and asylum law, particularly of the more complex areas which are regularly dealt with by Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber
- A clear ability to develop and apply knowledge of complex immigration and asylum law in a wide range of situations
- Evidence of the ability to develop knowledge in complex areas of own field or in an unfamiliar or new area of law
- Offering advice to other legal professionals

Working and Communicating with Others

Outstanding evidence:

- Clear demonstration of appropriate authority, impartiality and fairness in dealing with challenging situations
- Consistently excellent examples demonstrating all aspects of the competency
- Complex situations requiring insight and sensitivity
- Presenting a calm confident approach when dealing with challenges.
- Examples of high level and challenging situations, and demonstrating the ability to ensure fairness to all parties.

Strong evidence:

- Offered examples of situations requiring broader understanding and involving demanding situations that require considerable sensitivity and accommodation
- Presented examples from positions of responsibility where candidate the occupied a leadership role and demonstrated the ability to work constructively with others and command respect in a broader context
- Dealing with challenging situations, perhaps in judicial or quasi-judicial settings

Sufficient evidence:

- Demonstration of confidence by asserting authority. Presented examples which demonstrated understanding of how to accommodate the needs of vulnerable people, but the examples are generally routine

Insufficient evidence:

- Limited evidence of persuasive communication
- Responses not always focused on relevant information and lack clarity.
- Poor communication skills; offering excessive background and generalised information rather than details of actions and behaviours
- Failure to respond to prompts from panel members
- Examples did not demonstrate the ability to exercise authority or command respect at the level required

Assimilating and Clarifying Information

Outstanding evidence:

- Examples included complex, conflicting information from multiple sources, showing thorough analysis, establishing key criteria and focussing others on critical issues
- Examples demonstrated how the candidate analysed large volumes of

complex and conflicting information

Strong evidence:

- Examples involving how the candidate analysed a large volume (typically several lever arch files) of complex and conflicting information

Sufficient evidence:

- Examples showed a clear, logical approach to analysing reasonably complex Information

Insufficient evidence:

- Examples did not include enough information of complexity
- Candidate did not adequately explain how the information was analysed, or how key issues were established
- Some examples contained sufficient volume but little complexity
- Responses were unfocussed and lacked clarity of approach

Managing Work Efficiently

Outstanding evidence:

- Examples involved devising and implementing new systems or procedures which improved own work throughput and that of others
- Novel use of IT to improve efficiency or make more effective use of existing systems
- Examples of multi-role handling

Strong evidence:

- Proactively planning and setting priorities
- Examples often relate to extended periods of pressure
- These required sustained management and use of various resources
- Responsibility for, and coordinating the work of others
- Evidence of resilience in challenging situations

Sufficient evidence:

- Examples that demonstrate the ability to handle a considerable work load
- Examples of proactive planning and responding swiftly to changing needs
- Evidence of resilience and flexibility to manage workload effectively
- Effective use of technology

Insufficient evidence:

- Little evidence of managing proactively.
- Inability to demonstrate effective time management.

General Observations

The selection panellists recognised that outstanding and strong candidates routinely demonstrated a thorough approach to their preparation for the situational questions and interview. The strength of their knowledge and experience was evident and resulted in a more structured and confident delivery throughout the proceedings.

The panellists noted that there were common features with candidates who did not pass the selection day assessment process. Some were affected by nerves which undermined their confidence when delivering their responses to the interview questions. There was a tendency to present evidence that did not address the relevant competence. This gave the impression that some candidates were distracted and unable to focus the questions being asked of them. This often resulted in panel members guiding candidates back to the original question and the relative competence. Some candidates lacked the relevant experience required of the post and this may have further undermined their confidence at interview.