



Online Qualifying Test Evaluation and Feedback Report

**00037- Employment Appeal Tribunal Lay Members,
for England, Wales & Scotland**

November 2020

Purpose

The purpose of this report is to provide an evaluation of the **Employment Appeal Tribunal Lay Members, for England, Wales & Scotland** online qualifying test and general feedback on candidate performance in the test.

The report describes how the Judicial Appointments Commission (JAC) developed the test and marking schedule, for this non-legal exercise, how the test was structured, and how the number of candidates shortlisted for progression was attained. Additionally, it provides information on the overall performance of candidates in the test, identifying areas of good and poor performance in the test.

Competency Framework

The test was designed to assess the following competencies:

- Exercising Judgement
- Working and Communicating with Others
- Managing Work Efficiently

The competencies were developed so that candidates could demonstrate the proficiency and capability transferable to the role from other contexts. The specific bullet points under each competency heading were designed to reflect the skills and abilities that an effective Employment Appeal Tribunal Lay Member is expected to have. This enabled us to assess candidates in a fair and consistent way.

Development of the test

The test and the marking scheme were devised by three tribunal judges from different chambers who work with non-legal members.

In common with all the selection tools developed for this exercise, the 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 materials developed for this exercise were reviewed internally by Operations, Policy, and Diversity and Engagement teams to quality and equality assure the material to ensure it was an effective tool to assess candidates. The teams also ensured that the materials did not unfairly advantage or disadvantage any potential candidates taking the test on the basis of their diversity characteristic.

Following this internal quality assurance, the material was then reviewed by the JAC Advisory Group. The Advisory Group is composed of members of the judiciary including tribunal members and representatives of the legal professions and chaired by a lay JAC Commissioner. It offers its advice and guidance on the development of selection material and also looks at material in terms of quality and whether it would have any negative impacts on diverse groups.

The effectiveness of the test was assessed by means of a dry run with a range of volunteers, none of whom were legally qualified as the role does not require legal qualification. This provided an opportunity to trial the test material and make any necessary amendments.

Structure of the test

The test was hosted on the JAC Digital Platform and was assessed by candidates logging onto their JAC account.

Candidates were presented with a 45-minute Situational Judgement test which consisted of 20 questions. The questions described a range of different situations they might experience in the job as an Employment Appeal Tribunal Lay Members, for England, Wales & Scotland.

Candidates were assessed on their reading of a situation and their ability to judge the effectiveness of a number of different responses provided under each question. Candidates needed to identify both a most appropriate and least appropriate answer from the five options presented.

All of the situations used in the questions were hypothetical and no prior knowledge of rules or procedures was required. No advance reading was required. Candidates were not being assessed on whether or not they knew the right answer based on knowledge or experience. They were assessed on their reading of a situation and their ability to judge the effectiveness of different responses.

Marking of the test

The test was marked automatically. The pass mark is determined by the number of candidates needed to be invited to selection days.

In the test each question had 5 answer options. It was necessary for the candidate to identify the most appropriate and least appropriate response, with 1 point scored for each answer.

Therefore, candidates could score a maximum of 2 points for each question.

In any qualifying test those candidates who score below 30% do not proceed.

In this exercise candidates applied for one of two roles, employee representatives and employer representatives. In order to ensure enough candidates progressed in line the respective vacancy requests for each role: two different pass marks needed to be used. The pass mark was 55% for employer representatives and 30% for employee representatives, and all candidates scoring that percentage or higher were taken to the next selection stage which was the enhanced eligibility sift.

The difference between the two pass marks is due to the number of candidates applying for each role. There were 68 applications for the employee representative role and 131 for the employer representative role.

Distribution of marks

199 candidates were invited to take the test.

190 candidates took the test.

9 did not take the test.

All candidates were scored on their answers to the test based on the marking schedule above. Candidates were then ranked in order of merit from first to last based on the percentage score.

This provided a merit list determining how many candidates would be invited to the next stage of the selection process based on the approach outlined.

The highest and lowest marks awarded are shown in the table below:

| Test | Highest score | Lowest score |
|----------------------------|------------------------------|------------------------------|
| Situational Judgement Test | 32/40 - 80% (1 candidate) | 11/40 – 28% (1 candidate) |

Approach to shortlisting

When the JAC receives notification from HMCTS confirming the final number of vacancies for the requested post, calculations are made to establish how many candidates will be taken to selection day (usually at a ratio of 2 or 3 candidates interviewed for each vacancy). This allows us to estimate the number of candidates we need to progress after the shortlisting stages until we reach the selection day ratio.

For this exercise we received a vacancy request to fill **19** posts of which 9 were for employee representatives and 10 for employee representatives. We therefore planned the selection exercise based on inviting around **40** candidates to selection day.

Candidates scores from the test were placed on a merit list with the highest score placed at the top and the lowest at the bottom

All candidates who applied for the exercise were invited to the first stage of shortlisting, the online qualifying test. Following the online qualifying test, candidates were assessed, based on the information provided in their application, as to whether they met the statutory eligibility requirements.

124 candidates progressed from the online qualifying test to the enhanced eligibility sift **64** candidates for the post of employer representative and **60** candidates for the post of employee representative. Candidates were then sifted in merit order based upon their eligibility for the role. A number of candidates did not demonstrate sufficient evidence to indicate their suitability for the role and were subsequently removed from the exercise. **37** candidates who met the eligibility requirements were invited to selection days; **24** candidates for the post of employer representative and **13** candidates for the post of employee representative.

Equal Merit Approach

Where there are candidates with the same score at the cut off line, an Equal Merit Provision (EMP) may be applied in line with the JAC's published policy, which is available [here](#). If the equal merit approach is applied, this will be after the consideration of a sub-committee of Commissioners; consisting of a legal Commissioner, a lay Commissioner and the Assigned Commissioner for the exercise. The sub-committee will consider and will need to be satisfied that:

- the candidates about whom a decision is being taken are of equal merit.

- The particular protected characteristic is underrepresented either in the judiciary as a whole or at the relevant level of judiciary.
- reliance on EMP in the shortlisting process being conducted is a proportionate means of achieving the aim of increasing judicial diversity.

An EMP was not applied at this stage of the selection process.

Candidate Performance

We do not have a predetermined pass mark for the test; the line of shortlisting is determined by the relationship between the relative performance of candidates against each other in any given test, and how many slots there are for the next stage of shortlisting.

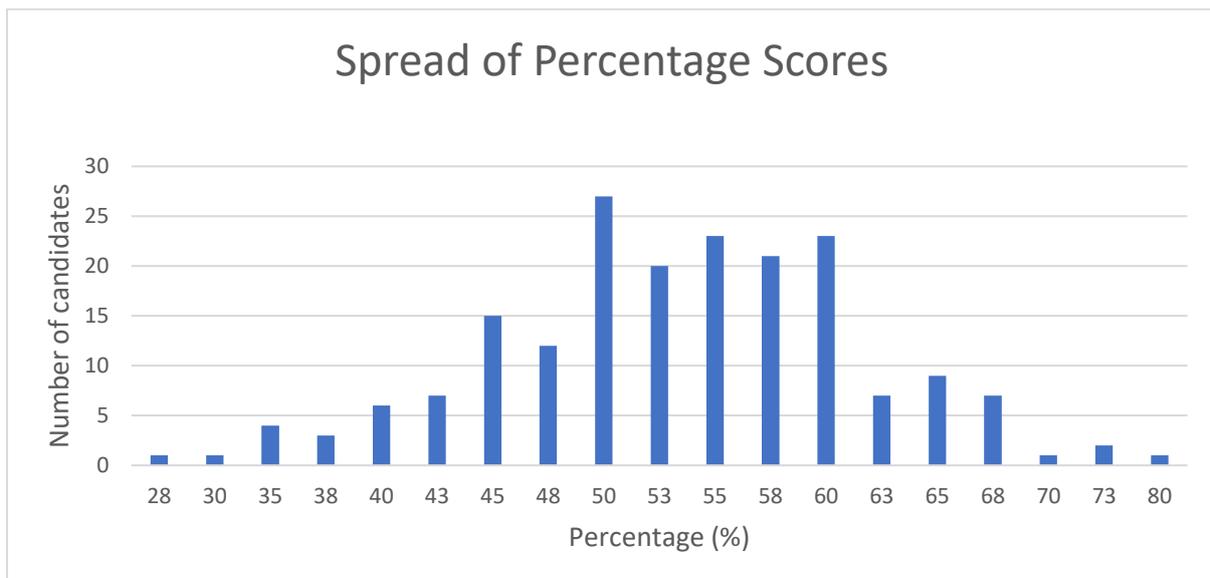
The average candidate scores for this test were as follows:

- the lowest candidate score was 28%
- the highest candidate score was 80%.
- the average candidate score was 53%.

In Question 2, candidates were asked what to do in a tense situation before the hearing start due to the Chair arriving late and decided to go straight into the hearing. This was the highest scoring question with 44% of candidates correctly identifying both the most appropriate and least appropriate answer and 47% of candidates correctly identifying either the most appropriate or the least appropriate answer.

In Question 20, candidates were asked what to do when during a hearing break they find what might be new evidence for the case. This question appeared the most challenging with only 7% of candidates correctly identifying both the most appropriate and least appropriate answer and 27% of candidates correctly identifying either the most appropriate or least appropriate answer.

The chart below shows the total percentage scores.



Feedback from candidates

After the qualifying test, candidates were invited to complete an anonymous candidate survey. **83** candidates responded to the survey. Based on the results of the candidate survey:

When asked how they would rate the quality of customer service they received from JAC staff during the qualifying test process

- Around 77% of candidates said it was good or excellent.
- Around 1% of candidates said it was poor or very poor.
- Around 22% of candidates said it was fair or not applicable.

When asked if they understood from the instructions what was expected during the qualifying test

- Around 98% of candidates agreed or strongly agreed.
- Around 2% of candidates disagreed or strongly disagreed.

When asked if the situational judgement test gave them the opportunity to show how they would deal with the type of situation that could arise with the role

- Around 78% of candidates agreed or strongly agreed.
- Around 5% of candidates disagreed or strongly disagreed.
- Around 17% of candidates neither agreed nor disagreed.

When asked if the qualifying test was accessible in terms of format, language used and topics covered

- Around 88% of candidates agreed or strongly agreed.
- Around 5% of candidates disagreed or strongly disagreed.
- Around 7% of candidates neither agreed nor disagreed.

When asked if they were confident in the qualifying test as a JAC selection tool

- Around 64% of candidates agreed or strongly agreed.
- Around 12% of candidates disagreed or strongly disagreed.
- Around 24% of candidates neither agreed nor disagreed.

When asked if the qualifying test was easy to complete

- Around 76% of candidates agreed or strongly agreed.
- Around 9% of candidates disagreed or strongly disagreed
- Around 15% of candidates neither agreed nor disagreed.

When asked if they experience technical difficulties during the test

- Around 95% of candidates said "No"
- Around 5% of candidates said "Yes"