

Post Selection Day Evaluation and Feedback Report

025: Fee-paid Specialist Lay Members, First-tier Tribunal, Health Education Social Care Chamber (Special Educational Needs and Disability)

November 2020

Purpose

The purpose of this report is to provide an evaluation of the selection days for Fee-paid Specialist Lay Members, First-tier Tribunal, Health Education Social Care Chamber (Special Educational Needs and Disability) 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 competency-based interview were designed to assess the following competencies:

- Exercising Judgement
- Possessing and Building Knowledge
- Assimilating and Clarifying Information
- Working and Communicating with Others
- 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 Specialist Lay Member of the First-tier Tribunal is expected to have. This enabled us to assess candidates in a fair and consistent way.

Additional selection criteria

This was a non-legal exercise and in order to be eligible to apply, candidates needed current knowledge and practical experience of working with children with special educational needs and disabilities within a professional capacity; and knowledge and practical experience of the relevant special educational needs and disability statutory frameworks and practice currently operating in England.

Performance of candidates

218 candidates applied for this exercise. Following an enhanced eligibility sift, 138 candidates were invited to selection day. Seventy-eight candidates were recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment. In making this decision the Commission took into account all relevant character checks and all evidence provided by the candidates at selection day as well as the candidates' independent assessments. Two candidates withdrew during the course of selection days and fifty-eight candidates were assessed as 'not presently selectable'.

Selection day

Selection days were held remotely via MS Teams, between 2 and 6 November 2020 and 16 and 25 November 2020. All candidates were offered a one-to-one tutorial with a member of the JAC team to ensure they were comfortable with using MS Teams and knew what to expect.

Situational questions

Development

The situational questions were drafted by a Tribunal Judge. In common with all the selection tools developed for this exercise, 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.

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.

Structure of the situational questions

There were two written scenarios with a series of questions on each scenario.

In the first scenario candidates were asked to imagine they were in a pre-hearing discussion with a Judge and another specialist member. Candidates were informed of the materials available to the panel at the pre-hearing discussion. They were also informed that late evidence has been submitted and the other specialist member had preconceptions about the author of the late evidence. Candidates were expected to identify any issues to discuss with regard to Tribunal procedure and the Education Health and Care (EHC) Plan which was provided as advance material.

The second scenario was split into two parts.

In the first part candidates were asked to imagine they had started to hear the appeal. After a short break, the parents tell the panel they no longer wish to continue with the appeal as there is a dispute with the local authority (LA) over legal costs. Candidates were expected to analyse and discuss who can make this decision, what factors were relevant in deciding whether the parents can withdraw and what strategies they would use to resolve the issue between the parties. The second part follows on as the parents decide to continue with the appeal.

Advance preparation

The candidates invited to selection days were asked to familiarise themselves with specific sections of the SEND (Special Educational Needs and Disabilities) Code of Practice, an EHC Plan and other documents relating to the appeal in the situational questions. The reading materials were provided approximately one week in advance of selection days.

Assessment of candidates' responses to the situational questions

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

Outstanding evidence included:

- Identifying the late evidence, the rules and limitations around it, the impact admitting or disallowing the evidence would have on both the parties and options to reduce the impact.
- Identifying the issue of bias, being prepared to challenge the views and discussing whether the judge should be made aware of the biased views.
- Identifying all the points of discussion and issues in the various sections of the EHC Plan, referring to the relevant case law appropriately.
- Knowing that the right to mainstream education does not apply if parents want the child to attend a special school and the LA policy regarding special school admission does not override the parents right to request for a specific school considered under the legal framework.
- Knowing the likelihood of the LA being able to pursue the parents for costs.
- Knowing the Procedure Rules around allowing children to attend a hearing.
- Suggesting various options to manage the hearing efficiently while ensuring Tribunal rules are followed.

Strong evidence included:

- Identifying the late evidence, considering whether it was previously available, whether it is relevant for a fair hearing, whether the LA have had a chance to consider it and knowing the panel needs to give reasons for admitting or disallowing the evidence.
- Identifying the issue of bias and being prepared to challenge the views.
- Identifying the majority of the points of discussion and issues in the various sections of the EHC Plan, referring to the relevant case appropriately.
- Understanding that the Tribunal needs to decide whether both school placements are suitable, that “the school is full” is not an argument that the LA can rely on in defending the appeal and that more evidence is needed.
- Understanding the Tribunals rules around withdrawal and the reasons why it would not be appropriate to consent to a withdrawal.
- Identifying the role of the SENDIASS representative to support the unrepresented party and suggesting strategies to help the parents to manage the hearing better.
- Knowing that the Tribunal has a discretion as to whether the child stays in the hearing and considering the impact on the child and the witnesses.
- Suggesting some options to manage the hearing efficiently while ensuring Tribunal rules are followed.

Sufficient evidence included:

- Identifying the late evidence and that there are rules around it.
- Identifying the issue of bias and that it should be disregarded.
- Identifying some of the points of discussion and issues in the various sections of the EHC Plan.
- Understanding that more evidence is needed from the school and it is not enough for the LA to say that it is full.
- Understanding the need to explore the dispute over legal costs further and clarifying what happened with both parties.
- Considering the interests of the child as well as his parents’ needs.
- Acknowledging the needs of the clerk and court staff.

Insufficient evidence included:

- Not understanding the Tribunal rules and procedures.
- Giving weight to the views of the other specialist member.
- Trying to carry out their own assessment of the child without considering the expertise within the available documents.
- Making decisions without considering the impact on court staff, the parents and the child.
- Not being aware of the child's needs and well-being.

Competency-based Interview

Each candidate then took part in a competency-based interview. Here the panel was seeking further evidence and examples from the candidate of the required competencies in the context of the role of a Specialist Lay Member of the First-tier Tribunal.

Working and Communicating with Others

Outstanding evidence included:

- Articulate and fluent answers which showed breadth and depth. The focus was on the candidates own actions and behaviours in specific complex examples with a strong element of challenge.
- Calm, confident, flexible approach to resolving difficulties in a way that supports and challenges others to achieve the required outcome.
- Shows great integrity and insight in resolving an extremely challenging issue.

Strong evidence included:

- Outlining in detail the steps taken to overcome difficulties or conflicts and bringing people together in order to achieve a specific goal.
- Showing sensitivity in a demanding situation which may involve making unpopular decisions.

Sufficient evidence included:

- Routine and underdeveloped examples which would have benefitted from more detail and focus.
- Gave a basic level of reasoning in answers.

Insufficient evidence included:

- Not answering the question that was asked.
- Providing generalised information and lacking detail despite prompts.
- Providing answers that were superficial and didn't give enough information to evidence the competency.

Managing Work Efficiently

Outstanding evidence included:

- Taking an innovative approach to resolving a difficult situation, introducing change and demonstrably increasing efficiency.

- Devising and introducing new procedures or processes which improved their own work and that of others.

Strong evidence included:

- Clearly outlining the steps they took to resolve an unexpected situation in challenging circumstances.
- Demonstrating resilience in challenging circumstances for themselves or others.

Sufficient evidence included:

- Routine examples lacking in complexity and challenge.
- Providing generalised responses and describing the type of situation.

Insufficient evidence included:

- Did not consider efficient use of resources or time.
- Did not demonstrate effective time management.
- Commonplace examples which showed little initiative.

Feedback from Candidates

After the selection days, candidates were invited to complete an anonymous candidate survey. Seventy-five candidates responded to the survey. Based on the results of the survey:

The instructions provided beforehand enabled me to prepare for the selection day.

- 78.6% of candidates either agreed or strongly agreed
- 14.7% of candidates neither agreed nor disagreed

I understood what was expected on the selection day.

- 76% of candidates either agreed or strongly agreed
- 12% of candidates neither agreed nor disagreed
- 12% of candidates disagreed

The situational questions discussed in the situational questioning were realistic and relevant to the role.

- 70.7% of candidates either agreed or strongly agreed
- 20% of candidates neither agreed nor disagreed

The situational questioning gave me a chance to display how I would react to various tribunal situations.

- 68% of candidates either agreed or strongly agreed
- 17.3% of candidates neither agreed nor disagreed

I am confident in the situational questioning as a JAC selection tool.

- 62.7% of candidates either agreed or strongly agreed
- 24% of candidates neither agreed nor disagreed
- 9.3% of candidates disagreed

The interview questions gave me the opportunity to demonstrate my skills, abilities and competence for this role.

- 61.4% of candidates either agreed or strongly agreed
- 20% of candidates neither agreed nor disagreed
- 14.7% of candidates disagreed

The panel behaved professionally and treated me with respect.

- 97.4% of candidates either agreed or strongly agreed

I am confident in the interview as a JAC selection tool.

- 65.4% of candidates either agreed or strongly agreed
- 22.7% of candidates neither agreed nor disagreed
- 9.7% of candidates disagreed