Qualifying Test Feedback Report

109 Salaried Judge of First-tier Tribunal

4 December 2018

Purpose

The purpose of this report is to provide general feedback on candidate performance in the **109 Salaried Judge of the First-tier Tribunal** Parts 1 and 2 qualifying test (QT). The report describes how the Judicial Appointments Commission (JAC) developed the test and marking schedule, and how the test was structured.

Additionally, it provides information on the overall performance of candidates in the test.

The qualifying test was designed to test a candidate's transferable skills and their potential to work effectively as a Salaried Judge of the First-tier Tribunal rather than to assess their jurisdictional knowledge. Irrespective of the jurisdiction(s) candidates were interested in sitting in, all candidates underwent the same selection process; qualifying test selection tools were not divided by jurisdiction at any stage throughout the process.

Competency framework

The test was 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 competencies were developed so that candidates could demonstrate the skills and abilities which were transferable to the role from other contexts. The specific bullet points under each competency heading were designed to reflect skills and abilities that an effective salaried tribunal judge is expected to have. This enabled us to assess candidates in a fair and consistent way.

Development of the test

The test (Parts 1 and 2) and the marking schedules were devised by 4 salaried judges – one from the Immigration & Asylum Chamber, one from the Tax Chamber, one from the Social Entitlement Chamber and one from the Health, Education and Social Care Chamber.

In common with all the test material developed for this exercise the test was designed to assess relevant transferable skills 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 profession, offered advice and guidance during its development.

In common with all qualifying tests used by the JAC, both the test and marking schedule were subject to an extensive quality – and equality – assurance process

including review by JAC Head of Diversity and Engagement and the Advisory Group. The effectiveness of the test was assessed by means of a dry run with a range of volunteers from relevant candidate groups.

Structure of the test

The test was hosted on the JAC website and was accessed by candidates using their online account. The 90-minute test presented candidates with 2 parts:

- **Part 1** (multiple choice): Situational Judgement (45 minutes, 20 questions)
- **Part 2** (multiple choice): Critical Analysis (45 minutes, 20 questions)

Advanced reading

Part 1: no preparation was required

Part 2:

- R (on the application of Hill) [2013] EWCA Civ 555.
- Speech given by the Lord Chief Justice (the sixth Scarman Lecture) at Gray's Inn on 26 June 2017.

In **Part 1** all the situations were hypothetical and no prior knowledge of rules or procedures 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.

In **Part 2** it was explained that for each question candidates had to select what they considered to be the best answer. The test was broken down into 2 parts, A and B. The questions for Part A of the test were based around R (on the application of Hill) [2013] EWCA Civ 555. The questions for Part B were based around the Speech given by the Lord Chief Justice (the sixth Scarman Lecture) at Gray's Inn on 26 June 2017.

Marking of the test

Both parts of the test were marked automatically.

Marking schedule

In **Part 1** (situational judgement) there was only one correct answer per question which scored between 2 or 3 marks depending on the question. A total of 50 marks were available for this test.

In **Part 2** (critical analysis) for each question candidates had to select the most appropriate statement, each statement carried a mark between 0 to 7, 0 being the least appropriate answer and 7 being the most appropriate answer. A total of 140 marks was available for this test.

Distribution of scores

730 candidates took the test.

The scoring process was as follows:

- all candidates were scored on their answers to Part 1 and Part 2 of the test

- all candidates were then ranked in order from first to last based on the combined outcome of Part 1 and Part 2

- a very small number were then sifted out because on either Part 1 or Part 2 they had not met the minimum score of 30% (these were the lowest scoring candidates of all)

- the highest scoring 505 candidates were then invited to complete Part 3 (online scenario test) in January 2019

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

Part	Highest score	Lowest score
1. Situational Judgement	38/50 (1 candidate)	0/50 (1 candidate)
2. Critical Analysis	78/140 (1 candidate)	0/140 (1 candidate)

The test was clearly quite challenging because:

- while no one question was found to be particularly difficult (that is more than 10% of candidates scoring zero) no candidate scored the maximum possible marks on either Part 1 or 2.

Approach to marking Part 1 and Part 2

When we receive a vacancy request from Her Majesty's Courts and Tribunals Service we calculate how many candidates we need to take to selection day to fill the vacancy request (usually a ratio of 2 to 3 candidates for each vacancy). This allows us to estimate the number of candidates we need to progress after the qualifying test to selection day. If 2 or more candidates have the same score we will take all those candidates through, this is what we call bunching.

Usually on qualifying tests we do not use a simple score to rank candidates, instead we apply statistical analysis tools, such as an averaged standard deviation across both online tests for each candidate, to scores before they are ranked into a merit order for decisions to be made about progression to the next stage of the exercise.

This ensures tests with more points available than others don't disproportionately affect outcomes. For example, so 30/40 (75%) in one test isn't better than 9/10 (90%) in another test just because the first test had 30 points scored compared to 9 points

in the second. This also allows us to compare how far your score varies from the average candidate or best candidate over both parts of the online test.

We also do not have a fixed pass mark as such. Our line is determined by how candidates' scores bunch once that analysis is complete. For example, a score of 30 points out of a possible maximum of 40 points in both parts of the test might mean there are 2 people with higher scores above you, or 30 people above you or 600. It depends on how strong your competitors were, how much bunching there is at the highest merit points, so the pass mark is relative, not fixed. Such tests routinely involve over a thousand candidates so bunching around a score can be quite considerable.

We do have a lower line below which candidates are automatically sifted out of the competition, this is usually a score of 30% or less on any part of the test.

The charts below show the spread of scores in the 2 parts of the test:

Part 1 spread of scores

Part 2 spread of score

Part 2 spread of scores
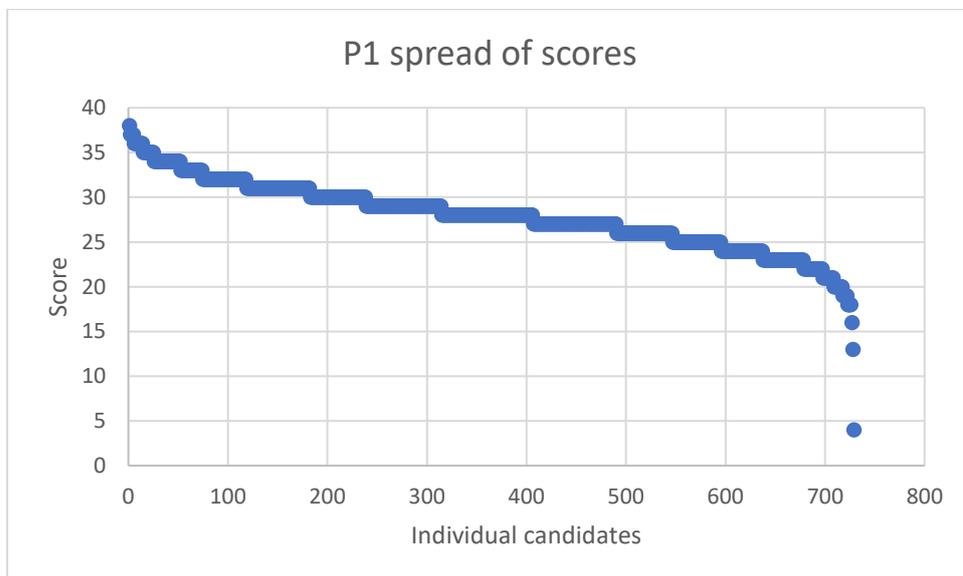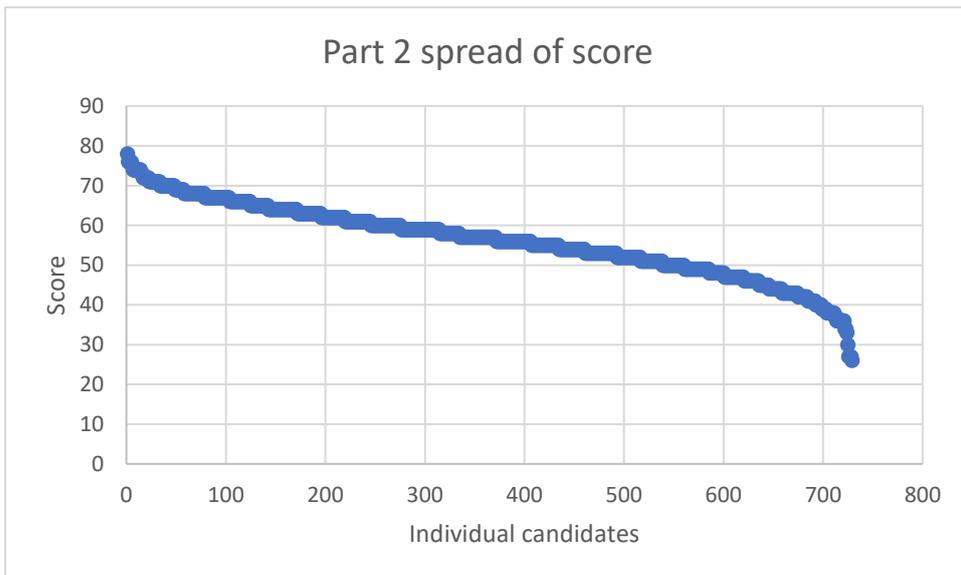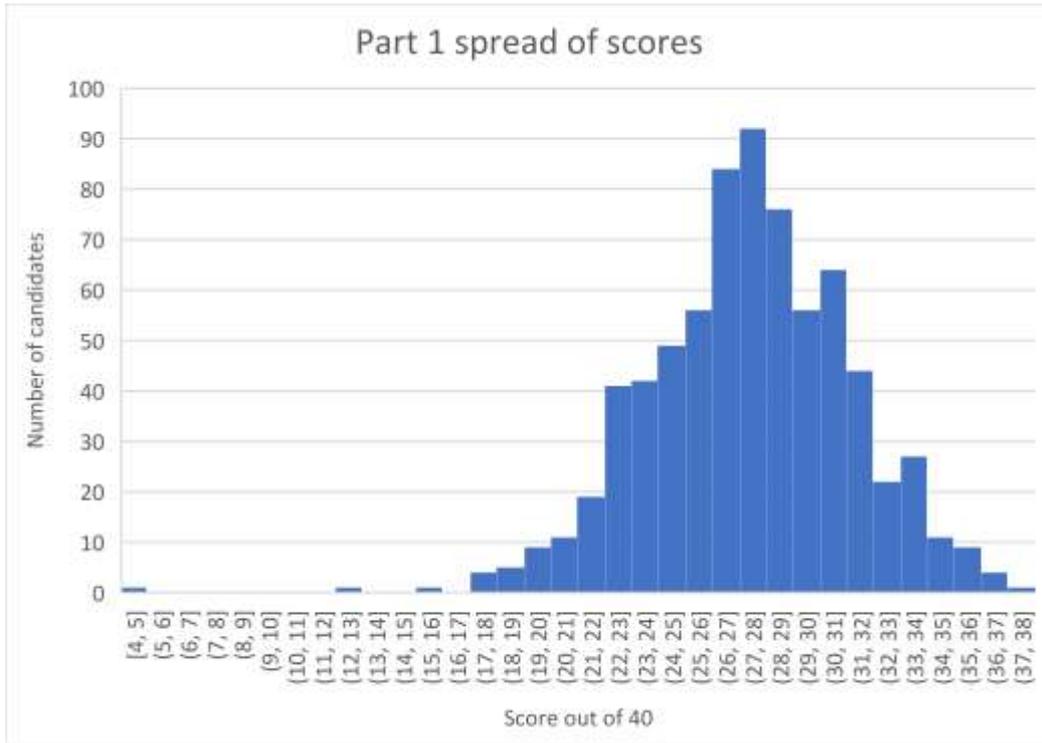
The lowest candidate score averaged over Part 1 and Part 2 combined for this test was 60%, the highest was 74% and the average was 70%.

In **Part 1** there were no questions where over 90% of candidates gave an incorrect answer (harder questions) and 5 questions where 90% or more of candidates gave the right answer (easier questions).

In **Part 2** there were no questions where more than 90% of candidates gave an incorrect answer (harder questions) and zero questions where 90% or more of candidates gave the correct answer available (easier questions).

Qualifying test technical issue

On Tuesday 4 December 2018 the qualifying test for 109 Salaried Judge of the First-tier Tribunal went live on the JAC website at 7am.

There was a cross-government IT incident towards late afternoon that affected a small proportion of candidates who were completing their test using computers running on the government IT network and appropriate action was taken on a case-by-case basis.

The JAC was also affected by the incident, however, it had no impact on candidates using non-government networked computers.

Feedback from candidates

After the qualifying test, candidates were invited to complete an online anonymous survey. 150 candidates responded to this survey. Based on their responses:

99% thought the instructions for the tests were either excellent, good or satisfactory.

Part 1 – Situational Judgement

On the 45-minute time limit:

- around 76% thought the time was just right
- around 17% thought the time was too short
- around 7% thought it was too long

When completing the test:

- around 96% finished within the 45-minute time limit
- around 5% ran out of time and finished the remaining questions at random
- 0% abandoned the test

Part 2 – Critical Analysis

On the 45-minute time limit:

- around 68% thought it was just right
- around 32% thought it was too short
- around 0% thought it was too long

When completing the test:

- around 88% finished within the 45-minute time limit
- around 13% ran out of time and finished the remaining questions at random
- 0% abandoned the test