

**Post Selection Day Evaluation and Feedback Report
010 Fee-paid Specialist Lay Member for the First-tier
Tribunal Health Education and Social Care Chamber
(Mental Health) and the Mental Health Review
Tribunal for Wales.**

July 2021

Purpose

The purpose of this report is to provide an evaluation of the selection days for 010 Fee-paid Specialist Lay Member for the First-tier Tribunal Health Education and Social Care Chamber (HESC) (Mental Health) and the Mental Health Review Tribunal for Wales (MHRT), 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.

This exercise was one of several that had to be initially paused due to the Covid-19 pandemic. The selection days were due to take place in July and August 2020. In March 2020 the Government introduced guidelines that prevented us from continuing with face to face interviews. The Board took the decision at its meeting in May 2020, to conduct the selection days remotely, using Microsoft Teams. Four selection exercises had been paused due to the pandemic and the Board considered the business need of each tribunal in deciding the order that each exercise should then be recommenced. It was consequently decided that the remote selection days for this exercise should take place between 5 January 2021 and 2 February 2021. All candidates were offered a one-to-one tutorial with a member of the team to ensure they were comfortable with using MS Teams and knew what to expect on the day.

During the period of the remote interviews, the team offered as much flexibility as possible in arranging the selection days to accommodate the high demands on the time of key workers who were candidates for this role.

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

Competency Framework

- Exercising Judgement
- Assimilating and Clarifying Information
- Possessing and Building Knowledge
- 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 is expected to have. This enabled us to assess candidates in a fair and consistent way.

Additional Selection Criteria

HESC

For this exercise, the Senior President of Tribunals required that candidates applying for the Health Education and Social Care Chamber (Mental Health) have a detailed knowledge of their own field of practice and a substantial working knowledge of the assessment, detention, discharge and aftercare of patients who suffer from mental disorder in the community. Candidates must be able to demonstrate an awareness of the range and nature of mental illness and mental disorders in England and Wales at the current time and further to

demonstrate sensitivity to and understanding of (i) the social context and (ii) the proper assessment of risk to the patient and to others. Candidates must demonstrate relevant substantial experience of working with those who suffer from mental disorders in either hospitals or the community, in at least one of the following categories:

- A) Practical professional experience of working in the fields of health and social care with particular reference to mental illness:
- B) Membership of, and /or active engagement with, local or national organisations with a particular interest in mental disorder and mental illness, in either a professional or voluntary capacity.

MHRT

For the posts in Wales, the Lord Chancellor required that candidates must be able to demonstrate an awareness of the range and nature of mental illness and mental disorders in England and Wales at the current time and further to demonstrate sensitivity to and understanding of (i) the social context and (ii) the proper assessment of risk to the patient and to others. Candidates must demonstrate relevant substantial experience of working with those who suffer from mental disorders in either hospitals or the community, in at least one of the following categories:

- A) Practical professional experience of working in the fields of health and social care with particular reference to mental illness:
- B) Membership of, and /or active engagement with, local or national organisations with a particular interest in mental disorder and mental illness, in either a professional or voluntary capacity.

Performance of candidates

322 candidates applied for this exercise. Following eligibility checks, 227 candidates were invited to selection day but due to withdrawals, only 208 attended. 112 candidates were recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment to HESC, and 24 were recommended to the Lord Chancellor for MHRT. 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.

Selection day

Development

The situational questions were drafted by two Tribunal Judges and were designed to test the following three competencies: Exercising Judgement, Possessing and Building Knowledge and Assimilating and Clarifying Information. 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 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 undertaking the selection days on the basis of their diversity characteristic or professional background.

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 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 looks at material in terms of quality and whether it would have any negative impacts on diverse groups.

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.

Situational questions

Structure of the situational questions

The situational questions were based on a Social Circumstances Report (SCR) relating to a patient detained under Section 3 of the Mental Health Act (MHA) since September 2020. There was a series of questions based on this SCR and candidates were advised to assume the role of the Specialist Lay Member on the tribunal. Candidates were given 25 minutes to read the Social Circumstances Report before their interview and the situational questioning in the interview lasted up to 30 minutes. During the situational questioning candidates were asked to consider the issues that are typical of those likely to arise in this post. As a result, they were expected not only to have knowledge of mental health care and an ability to analyse the evidence and reach decisions, but also to be able to provide concise answers.

The SCR related to a 48-year-old female patient who was married with two children. Prior to her admission the patient had been arrested for Greivous Bodily Harm in August 2020 for stabbing her husband. The charges were subsequently dropped but she was admitted to a Women's Psychiatric Intensive Care Unit under section 2 of the MHA.

The SCR had been compiled by the patient's Care Co-ordinator and was based on interviews with the patient, her husband (nearest relative), discussions with her Responsible Clinician and with multi-disciplinary team colleagues and from reading her electronic record. The SCR included the Care Co-ordinator's views on areas such as whether the patient could cope with a hearing, the patient's account of events, her husband's account of events, her diagnosis and treatment and proposed care plan.

The objective was to assess the candidate's knowledge of these types of reports and how to use the information contained in them. A selectable candidate was expected to be able to summarise the key elements of the care/treatment plan and identify what areas of care and treatment they thought should be included in the plan. The candidate was expected to be able to do this concisely without using acronyms.

Additionally, the panels were looking for candidates to be able to decide what questions they would like to ask about the plan and to express their views on both the patient's position and that of the husband. The panels were also interested in the decision-making process of the tribunal and what contribution the candidate felt they would be able to make to that process. Also, the panels wanted to see what decisions the candidate would make to ensure that the patient was treated fairly and finally, how they would react in a situation where it was time for deliberation and the other two tribunal members had come to a different decision to the candidate.

Advance preparation

Candidates were asked to read the following in preparation for their selection days:

The following relevant sections of the Mental Health Act 1983, as amended in 2007, in relation to:

- admission under s2 and s3;
- the discharge of patients under s23;
- the definition of the Nearest Relative under s26;
- applications to tribunals under s66; and
- discharges by tribunals under s72.

The above sections were relevant to the social circumstances report candidates received and were questioned about in the situational questions and scenario part (1) of their interviews.

Candidates were advised to read this document in advance of their interview and that they could refer to it during their interview. They were also advised that they were only required to read this information and that it was not necessary to read the footnotes or to do any further reading.

All candidates were sent the link to the advance reading on 16 December 2020.

General comments on situational questions:

Outstanding candidates:

- Showed awareness of all the relevant and important facts provided in the background material
- Had assimilated all of the information, analysed and evaluated it in order to support their decisions
- Applied the appropriate weight to the most important factors and gave them priority
- Were aware of the legal aspects and implications and applied the relevant law to underpin their decisions
- Made decisions which were well-reasoned, structured and clearly communicated. Left no doubt or uncertainty about their approach
- Demonstrated knowledge of mental health processes and procedures
- Were aware of the Tribunal powers and processes and took them into account when making decisions and recommendations
- Showed an ability to work with other members of a Tribunal and to make an effective contribution

Strong candidates

- Identified the important issues and facts from the background material without covering every single one
- Made appropriate decisions or recommendations based on mental health awareness but which were not always supported by the relevant law
- Demonstrated strong knowledge of mental health processes and procedures
- Showed awareness of Mental Health Tribunal processes and an ability to participate as an effective panel member

- Showed strong instincts when making decisions which were outside their area of expertise.
- Communicated clearly and confidently in making reasoned decisions

Selectable candidates

- Identified the necessary facts from the background information but did not cover all of the issues
- Made decisions which were appropriate and reasonable, but which were not always supported by the relevant law
- Demonstrated knowledge of mental health and the treatment of mental health patients in hospital and the community.
- Had experience of dealing fairly and appropriately with tribunal users.
- Showed some awareness of Tribunal procedures but not confident about their powers or legal considerations.
- Would be considered to be an effective tribunal member with experience and training

Candidates not presently selectable

- Had not assimilated the background information from the material provided
- Did not apply critical analysis to the information. Tended to regurgitate the facts as reasoned decisions.
- Answered the questions very briefly – caused by lack of analysis and a failure to recall or consider the important issues.
- Did not make well-reasoned decisions. Suggested ways forward did not identify the underlying problems or address them appropriately.
- Showed only a superficial knowledge of mental health processes and procedures.
- Were not aware of the Tribunal processes or legal powers and did not give evidence that they would be an effective panel member.
- Did not recognise the need for fully discussed, panel decisions
- Communicated uncertainly and did not inspire confidence in their approach or decision-making.

General comments on the Competency-Based Interview

Each candidate undertook 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 Specialist Lay Member. The panel drew upon relevant evidence provided in the candidate's Statement of Eligibility to inform their questioning. When coming to their final assessment of the candidate, the panel considered evidence from their independent assessors. Four competencies were assessed in the interview; Exercising Judgement, Possessing and Building Knowledge, Working and Communicating with Others and Managing Work Efficiently. Evidence for Assimilating and Clarifying Information had been thoroughly tested in the situational questions.

Exercising Judgement.

Candidates who were selectable at interview demonstrated the ability to make decisions or judgements based on examples or evidence from their medical experience or other professional related experience. In some cases, good evidence was demonstrated by examples of integrity and/or independence by making decisions which represented their values and views, taking account of the views of others, but deciding upon the appropriate course of action.

Selectable candidates with limited tribunal knowledge showed the right instincts in relation to making decisions which would be considered by a tribunal, but which may not have been in their area of expertise.

The difference between outstanding, strong and selectable candidates was determined using the complexity and relevance of the examples provided, the clarity and structure of the answer and the lack of prompting or probing carried out by the panel in order to obtain the relevant evidence.

Candidates assessed as not presently selectable did not sufficiently demonstrate their ability to make well-reasoned and focused decisions based on the evidence. They presented factual situations but did not sufficiently address what was required to demonstrate the competency or show the level of analytical or decision-making skills required.

Possessing and Building Knowledge

Selectable candidates demonstrated their current specialist knowledge and expertise along with evidence of their willingness to become familiar with subjects, issues and areas likely to be considered by a tribunal. They provided examples of taking on previously unfamiliar areas of expertise and showed a commitment to continued professional development as well as a willingness to learn in a tribunal situation.

Selectable candidates also showed an ability and willingness to acquire knowledge of areas with which they were not totally familiar.

The difference between outstanding, strong and selectable candidates was determined using the complexity and relevance of the examples provided, the clarity and structure of the answer and the lack of prompting or probing carried out by the panel in order to obtain the relevant evidence.

The difference between outstanding, strong and selectable candidates was that candidates from the former two categories were familiar with the medical aspects and issues considered in tribunal hearings as well as demonstrating knowledge of how tribunals work and what would be expected of them. They showed an awareness of the legal powers of tribunals.

Candidates assessed as not presently selectable did not show any knowledge or grasp of the legal powers of a tribunal or demonstrate that they could effectively add anything to the process through their professional expertise. They did not convince the panel of their ability to become familiar with areas covered by tribunals.

Working and Communicating with Others.

Whilst all selectable candidates were able to demonstrate this competency not all were structured or clear in their explanations. However, they were able to contribute to discussions at a level which confirmed that they could be effective tribunal members.

The difference between outstanding, strong and selectable candidates was that candidates from the former two categories demonstrated very effective communication skills. They spoke clearly with considered and well-structured evidence and examples. They clearly demonstrated an ability to work with tribunal members, to listen respectfully to their opinions and to consider all of the evidence. They were prepared to be independent but ready to discuss differing views, focusing on the evidence.

Strong and outstanding candidates also provided evidence of sensitivity when dealing with vulnerable patients and of making adjustments so that those patients could contribute effectively within the tribunal and be reassured that they had received a fair hearing.

Candidates assessed as not presently selectable did not show sufficient awareness of the tribunal process or an ability to contribute as an effective member. They did not convincingly or consistently provide clear evidence or examples, and some struggled to provide any relevant examples.

Managing Work Efficiently

Selectable candidates demonstrated resilience when dealing with difficult patients or people as well as dealing with challenging situations. They provided evidence and examples of working successfully as a team member and of offering assistance and advice where required. They were confident and familiar with technology and the possibility of sitting in remote hearings. They relished the challenge of seeing matters through to a conclusion with relevant and well explained answers.

Candidates graded as selectable also showed an ability to organise or work under pressure in their current role and an ability to use technology to an acceptable level.

The difference between outstanding, strong and selectable candidates in this competency was that the outstanding and strong candidates provided examples at a level commensurate with the role on offer.

Candidates assessed as not presently selectable provided minimal or no evidence of managing proactively or of an ability to use technology effectively. The examples provided were low-level and lacked relevance or detail.

General comments

A significant number of candidates had applied from a mental health nursing background. Generally, preparation for the selection day consisted of reflecting on their personal experience of tribunals and speaking to current sitting members.

Unsuccessful candidates found it difficult to provide specific, detailed examples of how they demonstrated the competencies. The evidence and examples provided described factual situations where they offered knowledge of mental health processes. They lacked recognition of the indicators or behaviours required to demonstrate the competency, or how, from the examples provided, they possessed the required skills. Panels used prompting to attempt to draw out evidence, but answers remained unstructured and lacked focus and analysis.

Successful candidates were able to draw on their experiences and relate them to the competencies. They were able to demonstrate decision-making, mental health knowledge and expertise, efficiency and an ability to work as a team or tribunal member. Some examples were straightforward, and some successful candidates would require training. However, they all showed the transferable skills which would allow them to effectively use their knowledge and become effective tribunal members.

Strong and outstanding candidates were easily identifiable from relevant, detailed and well-structured examples which were at a level commensurate with the role on offer. They

demonstrated how they possessed the competencies and communicated clearly and confidently.

Feedback from Candidates

After the selection days, candidates were invited to complete an anonymous candidate survey. Of the 208 candidates that were invited to complete the survey, 127 (61%) completed it. Based on the results of the survey, here are the key results:

How would you rate the quality of customer service you received from JAC staff on selection day?

- 94% rated it as excellent or good
- 5.5% as fair
- 0.5% as very poor

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

- 87% of candidates either agreed or strongly agreed
- 6% of candidates disagreed or strongly disagreed
- 7% neither agreed nor disagreed

I was confident I knew how to use Microsoft Teams before the remote selection day:

- 92% of candidates agreed or strongly agreed
- 2% of candidates disagreed
- 6% of candidates neither agreed nor disagreed

I understood what was expected on the selection day.

- 84% of candidates either agreed or strongly agreed
- 5% of candidates disagreed or strongly disagreed
- 11% neither agreed nor disagreed

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

- 88% of candidates either agreed or strongly agreed
- 3% of candidates disagreed
- 9% of candidates neither agreed nor disagreed

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

- 78% of candidates either agreed or strongly agreed
- 10% of candidates either disagreed or strongly disagreed
- 12% of candidates neither agreed nor disagreed

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

- 79% of candidates either agreed or strongly agreed
- 9% of candidates disagreed or strongly disagreed
- 12% of candidates neither agreed nor disagreed

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

- 73% of candidates either agreed or strongly agreed
- 12% of candidates disagreed or strongly disagreed
- 15% of candidates neither agreed nor disagreed

The panel behaved professionally and treated me with respect.

- 94.5% of candidates either agreed or strongly agreed
- 1.5% of candidates disagreed
- 4% of candidates neither agreed nor disagreed

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

- 78% of candidates either agreed or strongly agreed
- 7% of candidates disagreed or strongly disagreed
- 15% of candidates neither agreed nor disagreed