

Post Selection Day Evaluation and Feedback Report

021 Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales)

March 2021

Purpose

The purpose of this report is to provide an evaluation of the selection days for Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) 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

The selection day was divided into two parts. The first part included a pre-recorded roleplay, which was designed to assess the following competencies:

- Exercising Judgement
- Assimilating and Clarifying Information
- Working and Communicating with Others
- Managing Work Efficiently

The second part was a competency-based interview, which 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 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 Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) is expected to have. This enabled us to assess candidates in a fair and consistent way.

Performance of candidates

At the shortlisting stage, this exercise was part of the combined qualifying test (CQT) with the Deputy District Judge exercise. 3213 candidates registered for the CQT with the intention of applying for the Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) exercise.

Candidates who applied for this Tribunal exercise were able to apply for either the First-tier Tribunal post or the Employment Tribunal post, or both.

The 1106 most meritorious candidates who sat the CQT with the intention of applying for the Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) exercise were shortlisted and invited to sit a scenario test.

401 candidates were successful following the scenario test and were invited to complete their full application, as well as attend a selection day subject to completing a full application form and meeting the eligibility criteria. A total of 373 candidates attended a selection day.

207 candidates were recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment to the role of Fee-paid Judge of the First-tier Tribunal. 167 candidates were recommended by the Judicial Appointments Commission to the Lord Chancellor for appointment to the role of Fee-paid Judge of the Employment Tribunals (England and Wales). In making this decision the Commission took into account all relevant character checks, statutory consultation comments and all evidence provided by the candidates at selection day as well as the candidates' independent assessments and self-assessments. 120 candidates were assessed as 'not presently selectable'.

Selection day

Development of the pre-recorded roleplay

The pre-recorded roleplay was devised and drafted by a Regional Tribunal Judge with the support of an independent occupational psychologist organisation called the Work Psychology Group. In common with all the selection tools developed for this exercise, the roleplay was designed to simulate a court or tribunal environment with candidates taking on the role of judicial office holders. As the selection days were to be held remotely, the roleplay was designed to take place as a remote hearing via MS Teams.

The roleplay assesses how candidates deal with the situations they may face and decisions they would have to make if appointed. Candidates are expected to demonstrate their ability to meet the competency framework and whether they can maintain their performance under challenge and pressure.

The materials developed for this exercise were reviewed internally by JAC Operations, Selection 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 also looks at material in terms of quality and whether it would have any negative impacts on diverse groups.

The effectiveness of the roleplay was assessed by means of a remote dry run with a range of volunteers from relevant candidate groups. This provided an opportunity to trial the roleplay material, test the remote process and implement any necessary amendments.

Following the roleplay dry run, it was agreed that the use of MS Teams to conduct the remote roleplay was effective.

Structure of pre-recorded roleplay

The pre-recorded roleplay was designed to assess how candidates deal with decisions they would be asked to make and situations they may encounter if appointed as a Fee-paid Judge of the First-tier Tribunal or Fee-paid Judge of the Employment Tribunals (England and Wales).

The candidate was cast in the role of a fee-paid judge to conduct a substantive hearing in a dispute resolution tribunal between the mother of a young person with Down's syndrome and a local authority. The candidate was expected to make decisions on procedural matters during the hearing and give a final judgment on whether the young person could attend the residential summer camp run by the local authority. The candidate was expected to manage the hearing so they could finish in the allotted time.

The roleplay was designed to test the following competencies:

- Exercising Judgement
- Assimilating and Clarifying Information
- Working and Communicating with Others
- Managing Work Efficiently

The script was designed to test a candidate's ability to appropriately deal with situations and the people appearing before them, as well as process information and make decisions.

Selection day preparation

One week before selection day candidates were asked to read relevant sections from the Equal Treatment Bench Book. On selection day, candidates were given additional preparation material that provided a background to the roleplay. Candidates were given 45 minutes to familiarise themselves with the material. The preparation material consisted of the following:

- The decision of the local authority;
- The appeal notice from the appellant;
- The case management directions made two months ago;
- The statement of the local authority, made pursuant to those directions;
- Extracts from relevant Tribunal Procedure Rules and Practice Statements;
- Senior President's Practice Direction on Vulnerable Witnesses.

Marking of roleplay

A checklist and marking schedule were provided to the panels to guide them in what to look for under each competency.

Assessment of candidates' responses to the roleplay

The evidence for each competency tested in the roleplay is assessed as either outstanding, strong, sufficient or insufficient.

Outstanding evidence included:

- Running the hearing smoothly and demonstrating clear consideration of time management
- Showing awareness of timing and setting the pace for the conversation
- Demonstrating a clear grasp of the information provided and referring to specific sections of practice statements and rules
- Showing awareness and consideration for the needs of the parties and adapting style and approach accordingly
- Maintaining control of the hearing and establishing authority

- Demonstrating courtesy and empathy whilst challenging prejudice and inappropriate behaviour from the parties
- Demonstrating fairness, integrity and lack of bias or prejudice
- Delivering quick but clear and appropriate interlocutory decisions in a confident manner and supported by clear rationale
- Giving a well-structured and appropriate final judgment supported by a critical analysis of all information
- Showing willingness to be flexible in achieving the over-arching objective
- Demonstrating resilience in changing circumstances

Strong evidence included:

- Establishing authority and maintaining control of the hearing by utilising the available time appropriately
- Demonstrating awareness of most of the information provided and referring to some practice statements and rules
- Considering most of the needs of the parties and demonstrating empathy at times
- Challenging some of the inappropriate behaviour
- Making appropriate interlocutory decisions and demonstrating rationale in most places
- Delivering final judgment on time

Sufficient evidence included:

- Demonstrating understanding of the information provided and some consideration of oral evidence
- Making some appropriate decisions with limited reasoning and clarity
- Limited reference to hearing rules and practice statements
- Some consideration towards needs of the parties with limited adaptation of style
- Limited degree of challenging inappropriate behaviour
- Delivering final judgment with some reasoning
- Limited evidence of managing time appropriately

Insufficient evidence included:

- Not referencing the advance reading material
- Not explaining the purpose of the hearing and the running order
- Not providing clear decisions on the procedural matters
- Failing to tackle the animosity and inappropriate comments between the two parties
- Not showing empathy to parties
- Getting side-tracked on exploring non-essential issues with the parties
- Not keeping an eye on the time throughout the hearing
- Making incorrect judgements or incorrect rationale
- Lacking consistency in approach and confidence in decision making
- Not demonstrating appropriate consideration of the needs of the parties or showing the necessary authority
- Failing to make a final ruling within the time allowed.

Competency-based interview

Each candidate then had a competency-based interview. There, the panel were seeking further evidence and examples from the candidate of the required competencies and in the context of the role of a Fee-paid Judge of the First-tier Tribunal or Fee-paid Judge of the Employment Tribunals (England and Wales). The panel drew evidence provided in the candidate's self-assessment and career history to inform their questioning.

Assessment of candidates' responses to the competency-based interview

The evidence for each competency tested in the competency-based interview is assessed as either outstanding, strong, sufficient or insufficient.

Exercising Judgement

Outstanding evidence included:

- Detailed explanation of balancing competing factors in a complex decision making
- Making legally sound decisions on high profile cases in a confident manner
- Focused, relevant and recent examples of showing fairness
- Demonstrating a high level of integrity in a challenging situation
- Showing resilience and ability to withstand pressure in highly pressured situations involving a complex factual matrix and legal nuances
- Demonstrating a clear, structured and considered decision-making technique
- Demonstrating a thorough analytical process and a methodical approach in the decision-making
- Delivering clear and detailed examples in a thoughtful and careful manner

Strong evidence included:

- Demonstrating independence of mind, integrity and an ability to apply the relevant law and procedure correctly
- Applying the relevant legal and procedural considerations and making a sound decision in moderately complex situations
- Demonstrating an ability to reflect and learn
- Demonstrating strong independence and fairness in listening carefully and explaining legal concepts calmly
- Showing an ability to make clear and confident decisions without prejudice and when under pressure

Sufficient evidence included:

- Showing independence of mind and ability to make the correct decision in less legally complex situations
- Demonstrating ability to apply relevant law and procedure without giving a thorough explanation of the balancing exercise
- Demonstrating integrity and fairness in routine work situations
- Providing relevant examples in a less structured and clear way

Insufficient evidence included:

- Failing to provide a convincing example of making a finely balanced decision
- Providing unclear and unfocused answers which did not address the relevant questions
- Failing to demonstrate independence of mind or integrity
- Providing examples which were not fully developed, lacked contextual information or depth
- Providing examples which are too generic, routine or simplistic

Possessing and Building Knowledge

Outstanding evidence included:

- Demonstrating detailed knowledge of law and procedure in own field of expertise
- Demonstrating an ability to acquire further knowledge in complex areas efficiently at short notice
- Providing an example of complex piece of unfamiliar legal work and explaining in detail a systematic approach of learning and reflecting
- Demonstrating an ability to keep abreast of changes in law
- Showing willingness to learn and develop and support others
- Demonstrating an ability to translate knowledge into a format that can be shared with others in a clear and accessible manner
- Showing a commitment to sharing relevant knowledge and information with others through proactive involvement in professional associations and other activities
- Providing clear and in-depth answers which were delivered carefully and thoughtfully throughout

Strong evidence included:

- Demonstrating detailed knowledge of own field of expertise
- Providing a clear example of ability to acquire further knowledge in unfamiliar area rapidly
- Keeping abreast of changes in own field
- Demonstrating commitment to own continuous learning and development
- Showing willingness and enthusiasm to share developments and changes in the law with colleagues
- Providing examples which were wide-ranging in scope but not developed enough to constitute outstanding evidence.

Sufficient evidence included:

- Demonstrating an ability to acquire new knowledge with limited details on the complexity of the new information
- Keeping abreast of changes in law and applying that knowledge
- Developing knowledge in a new area of law within or closely within own area of specialism
- Ability to share information with others
- Providing examples which demonstrated elements of the competency but were considered too routine or straightforward

Insufficient evidence included:

- Failing to demonstrate an effective ability to learn new areas of law or retain them
- Failing to describe clearly the new knowledge that has been acquired
- Failing to show the complexity of information and research methods
- Getting side-tracked and failing to provide a clear and focused answer to the specific questions
- Providing examples which were too routine and lacking detail

Assimilating and Clarifying Information

Outstanding evidence included:

- Demonstrating an ability to assimilate a large amount of information using a highly organised approach and robust methodology to identify the important aspects
- Demonstrating an ability to carefully cut through, rationalise and weigh up conflicting information to form a view in a limited timeframe
- Describing a clear, methodical and analytical approach in reaching a decision
- Demonstrating an ability to work in a fast moving and changing environment
- Providing highly complex examples rich in evidence and detail

Strong evidence included:

- Demonstrating an ability to seek out and assimilate information from a wide range of sources
- Demonstrating an ability to weigh up conflicting information to reach a decision
- Demonstrating an ability to apply a rigorous and robust process to ensure grasp of key issues
- Demonstrating an ability to use technology to categorise and organise information
- Providing examples of considerable complexity and varying levels of detail

Sufficient evidence included:

- Demonstrating an ability to assimilate a large amount of information in a fairly routine example
- Demonstrating limited evidence of ability to analyse information and identify important issues
- Providing examples with limited but sufficient complexity, depth and details about strategies and processes

Insufficient evidence included:

- Failing to focus on the important points of the questions asked
- Failing to provide examples of sufficient complexity
- Failing to provide examples of detailed or extensive critical analysis
- Failing to demonstrate ability to give due weight to conflicting evidence
- Failing to provide examples in a structured and confident manner

Working and Communicating with Others

Outstanding evidence included:

- Demonstrating a clear approach to simplifying complex concepts and making them accessible to different audiences in clear and simple terms
- Demonstrating an ability to adapt communication style and language and use various communication tools to check understanding of audience
- Demonstrating a high-level awareness of diversity and the requirement to take account of the needs of different individuals
- Showing a high level of empathy and sensitivity to others, coupled with an excellent ability to build rapport.
- Showing an ability to inspire respect and confidence in own decisions
- Demonstrating an ability to manage a challenge to own authority
- Overall clear, succinct and well-structured approach to answering the interview questions whilst providing very comprehensive examples

Strong evidence included:

- Showing an ability to diffuse a challenge to own authority
- Demonstrating a strong sense of understanding and empathy in dealing with cultural differences
- Demonstrating an ability to explain difficult concepts in simple language
- Demonstrating an ability to validate understanding of other parties involved
- Demonstrating an ability to build rapport
- Strong communication throughout interview
- Providing well-structured and clear examples of varying levels of complexity

Sufficient evidence included:

- Demonstrating an ability to explain a difficult legal concept to lay people
- Demonstrating an ability to diffuse tension
- Demonstrating an understanding of diversity
- Demonstrating an ability to focus on the important aspects of the questions in most cases
- Demonstrating a clear communication style throughout the interview
- Providing less complex and challenging examples with limited but sufficient levels of detail

Insufficient evidence included:

- Failing to show ability to communicate a complex legal concept
- Failing to explain the management of challenges to authority
- Failing to demonstrate ability to adapt communication style
- Failing to show awareness of diversity
- Providing examples which were lacking detail, clarity or focus
- Lacking confidence in communicating answers throughout interview

Managing Work Efficiently

Outstanding evidence included:

- Demonstrating an ability to juggle work and personal commitments by using various techniques to reallocate, reschedule and prioritise tasks
- Demonstrating resilience under pressure in particularly challenging situations and high-profile cases
- Showing flexibility and responsiveness to changing circumstances
- Demonstrating enthusiasm and creativity in utilising IT resources to improve efficiency and productivity
- Providing well-explained, detailed examples with particular focus on the complexity of the situation, the decision-making process and the reasoning behind it

Strong evidence included:

- Demonstrating a detailed method for managing commitments and ensuring timely delivery
- Showing resilience when dealing with challenging work at short notice
- Demonstrating an ability to remain calm and to adapt to changing circumstances
- Showing a capacity for self-reflection
- Demonstrating an ability to utilise technology to enhance efficiency and respond to new ways of working
- Providing multifaceted examples with varying levels of depth and detail

Sufficient evidence included:

- Demonstrating an ability to manage time effectively
- Showing resilience and calmness under pressure
- Showing competence in using IT in everyday scenarios
- Providing examples with limited but sufficient complexity, detail and depth

Insufficient evidence included:

- Failing to demonstrate resilience under pressure
- Failing to show ability to manage workload efficiently
- Failing to demonstrate awareness and utilisation of technology
- Failing to provide succinct answers throughout interview
- Providing examples lacking complexity and depth

Welsh Questions

Candidates for posts in Wales were required to have an understanding, or the ability to acquire the understanding, of the administration of justice in Wales, including legislation applicable to Wales and Welsh devolution arrangements. This requirement was assessed at selection day through a series of questions. Candidates were assessed as either suitable or not suitable for posts in Wales, based on their answers to these questions.

Moderation

To ensure there was a consistency in marking across the panels, a sample of candidates were moderated.

Those who experienced technical issues at selection day were also moderated.

Feedback from Candidates

After the selection days, candidates were invited to complete an anonymous candidate survey. 173 candidates responded to the survey. The results are captured below:

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

- 94.2% of candidates selected either good or excellent
- 4.0% of candidates selected fair
- 1.2% of candidates selected poor

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

- 82.7% of candidates either agreed or strongly agreed
- 8.7% of candidates neither agreed nor disagreed
- 8.7% of candidates disagreed

I was confident I knew how to use Microsoft Teams before selection day.

- 96.5% of candidates either agreed or strongly agreed
- 2.9% of candidates neither agreed nor disagreed
- 0.6% of candidates disagreed

I understood what was expected on the selection day.

- 77.4% of candidates either agreed or strongly agreed
- 9.8% of candidates neither agreed nor disagreed
- 12.8% of candidates either disagreed or strongly disagreed

I am confident in the pre-recorded roleplay as a JAC selection tool.

- 48% of candidates either agreed or strongly agreed
- 19% of candidates neither agreed nor disagreed
- 33% of candidates either disagreed or strongly disagreed

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

- 65.3% of candidates either agreed or strongly agreed
- 15.0% of candidates neither agreed nor disagreed
- 19.7% of candidates either disagreed or strongly disagreed

The panel behaved professionally and treated me with respect.

- 96% of candidates either agreed or strongly agreed
- 2.8% of candidates neither agreed nor disagreed
- 1.2% of candidates disagreed

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

- 57.2% of candidates either agreed or strongly agreed
- 25.4% of candidates neither agreed nor disagreed
- 17.4% of candidates either disagreed or strongly disagreed