



Judicial Appointments Commission Welsh Language Scheme

**2020 - 21 Annual Monitoring Report to the Welsh Language
Commissioner**

Contents

1. Introduction	4
2. Background	5
3. Recruitment	6
4. Monitoring the Welsh Language Scheme	9
5. The Welsh Matters Committee	13

1. Introduction

This is the fifth Welsh Language Scheme Annual Monitoring Report prepared by the Judicial Appointments Commission (JAC) covering the period from 1 April 2020 to 31 March 2021. It demonstrates the progress we have made in implementing our scheme since it was endorsed by the Welsh Language Commissioner's Office in May 2016. The scheme is available on the JAC website: <https://www.judicialappointments.gov.uk/welsh-language-scheme>.

The JAC was previously covered by the Ministry of Justice's Welsh Language Scheme. We developed this voluntary, specialised scheme to better specify how we treat the Welsh and English languages. It explains how candidates for judicial appointment can communicate with the JAC in Welsh or English, according to their personal choice.

The scheme sets out how we give effect to the principle in Section 5 of the Welsh Language Act 1993 that, in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on a basis of equality. The scope of our commitments should be interpreted as applying to those recruitment activities and services in Wales that we are able to control or influence.

2. Background

The JAC was established on 3 April 2006 under the Constitutional Reform Act 2005. The JAC is an executive non-departmental public body, sponsored by the Ministry of Justice. We select candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals with UK-wide jurisdiction. Candidates are selected on merit, through fair and open competition, and we are committed to attracting applicants from as wide a field as possible. We work with a range of organisations to promote vacancies to eligible candidates.

The JAC launched its Welsh Language Scheme in May 2016, following a public consultation in October 2015. The scheme explains how we will treat the Welsh and English languages when assessing candidates' suitability for judicial appointment in Wales and explains that candidates will be able to communicate with us in English or Welsh, according to their personal choice.

3. Recruitment

The JAC is a London-based organisation of around 90 staff. It does not have a permanent delivery presence in Wales. The JAC's Welsh Language Scheme does not cover JAC staff recruitment as there are no identified Welsh language requirements for staff.

Where Welsh language skills are required for a judicial appointment, we are currently supported by members of the Welsh judiciary who sit on selection panels to assess Welsh language skills. Throughout 2020-21 the JAC has conducted an open recruitment exercise to increase the number of lay panel members who are able to speak Welsh. It is anticipated that these new members will join the cadre throughout 2021-22. Selection exercises where Welsh language skills are required are quality assured by the JAC Commissioner with special knowledge of Wales or the Assigned Commissioner to the exercise.

Requirement for an understanding of the administration of justice in Wales

An additional selection criterion is applied for vacancies in Wales. The criterion is approved by the Lord Chancellor and states:

“Candidates for posts in Wales need to have an understanding, or the ability to acquire the understanding, of administration of justice in Wales, including legislation applicable to Wales and Welsh devolution arrangements”.

Where candidates have applied for posts in Wales, a number of questions that are specific to each exercise are asked at the interview stage, with candidates assessed on their understanding of relevant Welsh issues.

Selection exercises 2020- 21

The JAC reports annually on the number of exercises completed within a reporting year.¹ The Welsh language scheme was implemented in May 2016 and was applied to selection exercises that went into planning stages from that time. This section details selection exercises that completed and reported from 1 April 2020– 31 March 2021 to give an overview of judicial recruitment in Wales.

Thirty-five selection exercises were finalised and reported in 2020–21. The business area and the judiciary identify Welsh language requirements for vacancies, which the JAC then assesses candidates against. The JAC continues to run selection exercises where Welsh language has been identified as a requirement for one or more posts.

¹ <https://judicialappointments.gov.uk/annual-reports-and-accounts/>

The following selection exercise identified vacancies in Wales that had an essential Welsh language requirement:

- **Recorder (133).** Welsh language was an essential requirement for two posts in the selection exercise for Recorder. The national exercise launched on 23 July 2019 with 121 vacancies across England and Wales. 121 candidates were recommended with nine candidates recommended as suitable for appointment to Welsh posts, including one candidate for a Welsh language role.

The following selection exercises identified vacancies in Wales that did not have a Welsh language requirement but tested candidates' understanding of the administration of justice in Wales:

- **District Judge (145).** The exercise for District Judges launched on 9 October 2019 with 75 vacancies with one post in Wales. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. 24 candidates were recommended, with no candidates recommended as suitable for appointment for the Welsh post.
- **Deputy Chairman of the Agricultural Lands Tribunal for Wales (151).** The exercise for Deputy Chairman of the Agricultural Lands Tribunal for Wales launched on 14 November 2019 with two vacancies, both based in Wales. All candidates were assessed on their understanding of the administration of justice in Wales. Two candidates were subsequently recommended as suitable for appointment.
- **Senior Circuit Judge, Designated Family Judge (00001).** The exercise for Senior Circuit Judge, Designated Family Judge was launched on 21 January 2020 with six vacancies, one based in Wales. Those candidates who were interested in the Welsh post were assessed on their understanding of the administration of justice in Wales. Six candidates were recommended overall, with one candidate recommended as suitable for appointment to the Welsh post.
- **Circuit Judge (00006).** The exercise for Circuit Judge was launched on 25 February 2020 with 63 vacancies across England and Wales. Those candidates who were interested in the Welsh posts were assessed on their understanding of the administration of justice in Wales. 53 candidates were recommended overall, with six candidates recommended as suitable for appointment to Welsh posts.
- **Judge of the First-tier Tribunal (00009).** The exercise for Judge of the First-tier Tribunal launched on 31 March 2020 with 70 vacancies (50 immediate and 20 future posts) across England and Wales in all First-tier Tribunal chambers. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. 70 candidates were recommended, with four candidates recommended as suitable for appointment to Welsh posts.
- **Judge of the Employment Tribunal (00026).** The exercise for Judge of the Employment Tribunal launched on 20 May 2020 with 25 vacancies across England and Wales. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. 21 candidates were

recommended with two candidates recommended as suitable for appointment to Welsh posts.

- **Senior Circuit Judge, Resident Judge (Cardiff and Winchester) (00018).** The exercise for Senior Circuit Judge, Resident Judge (Cardiff and Winchester) launched on 26 May 2020 with two vacancies, one for Cardiff and one for Winchester. Those candidates who were interested in the Cardiff post were assessed on their understanding of the administration of justice in Wales. No candidate was recommended for the Cardiff post with one candidate recommended for the Winchester post. The Cardiff post will be re-advertised in 2021-22.
- **Fee-Paid Legal Chair of the Residential Property Tribunal for Wales (00030).** The exercise for Fee-Paid Legal Chair of the Residential Property Tribunal for Wales launched on 03 September 2020 with nine vacancies, all based in Wales. All candidates were assessed on their understanding of the administration of justice in Wales. Nine candidates were subsequently recommended as suitable for appointment.
- **Regional Employment Judge (Wales and Midlands (West) (00005).** The exercise for Regional Employment Judge (Wales) launched on 16 November 2020 with two vacancies with one post in Wales. Those candidates who were interested in the Welsh post were assessed on their understanding of the administration of justice in Wales. One candidate was recommended as suitable for appointment to the Welsh post and one candidate for the Midlands (West) post.

The following selection exercises identified vacancies in Wales that did not have Welsh language requirements, and did not test candidates' knowledge of the administration of justice in Wales:

- **Fee-Paid Medical Member of the First-tier Tribunal, Social Entitlement Chamber (148).** The exercise for Fee-Paid Medical Member had up to 203 vacancies and launched on 6 November 2019. This is a specialised role with specific eligibility requirements and knowledge requirements. In light of the eligibility criteria and knowledge required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected 202 candidates.
- **Fee-Paid Specialist Member of the Upper Tribunal assigned to the Administrative Appeals Chamber (Disclosure and Barring jurisdiction) and First-tier Tribunal Health, Education and Social Care Chamber (Care Standards jurisdiction) (00011).** The exercise for Fee-Paid Specialist Member had 10 vacancies and launched on 18 February 2020. This is a specialist role which required detailed knowledge and restrictive eligibility criteria. In light of the experience and knowledge required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected 10 candidates.
- **Fee-Paid Disability Qualified Tribunal Member of the First-tier Tribunal, Social Entitlement Chamber (Social Security and Child Support Appeals Tribunal) (00015).** The exercise for Fee-Paid Disability Qualified Member had up to 80 vacancies, with up to six posts in Wales and launched on 11 March 2020. This is a specialised role with eligibility criteria which requires candidates to have knowledge

of disability matters or to be disabled themselves. In light of the criteria required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected 80 candidates.

- **Fee-Paid Financial Member of the First-tier Tribunal, Social Entitlement Chamber (00016).** The exercise for Fee-Paid Financial Member had 17 vacancies, with two based in Wales and launched on 24 March 2020. This is a specialised role with restricted eligibility criteria. In light of the eligibility criteria and the knowledge required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected 12 candidates.
- **Land Owner Lay Member of the Agricultural Lands Tribunal for Wales (00008).** This exercise for Land Owner Lay Member had three vacancies, all based in Wales and launched on 27 May 2020. This is a specialised role with a specific eligibility requirement. In light of the experience and knowledge required for the role, the JAC decided that additionally testing candidates' knowledge of the administration of justice in Wales would not add further value to the selection process; the JAC selected one candidate.

Section 83 of the Government of Wales Act 2006 allows the Welsh Government to seek assistance from other public bodies. The JAC assisted the Welsh Government for the following exercise:

- **Fee-Paid Education Panel Member for the Special Educational Needs Tribunal for Wales (SENTW) (174).** The exercise for Fee-Paid Education Panel Member for the SENTW was launched on 15 October 2019 with six vacancies. There was a need for one candidate to conduct hearings in Welsh. However, none of the five candidates recommended to the role spoke Welsh at a level which enabled them to conduct hearings in Welsh².

² This exercise was erroneously included in the 2019-20 report but has been included here for accuracy as the exercise has been reported in the 2020-21 reporting year.

4. Monitoring the Welsh Language Scheme

Selection exercises

The JAC's Welsh Language Scheme applies to selection exercises with posts in Wales that went into planning stages on or after May 2016. External advertising is only used by the JAC in exceptional cases. The 'advertising' section of our Welsh Language Scheme outlined provisions for any cases in which external advertising was used. External advertising was used for the Deputy District Judge (Magistrates Court) selection exercises which had posts in Wales over 2020-21.

Over the period 2020–21, we published Welsh translations of selection exercise material in the following exercises:

- Recorder which launched on 2 September 2020
- District Judge which launched on 23 September 2020
- Deputy District Judge (Magistrates Court) which launched on 2 March 2021

The JAC Welsh Language Scheme sets out that we will advertise positions that require working in Wales bilingually on the website. During the period of this report, 15 exercises were advertised bilingually with one exercise not being published bilingually due to an administrative error.

Staff have been reminded of the requirement for simultaneous translations in exercises involving Welsh posts and a series of refresher training workshops is in progress.

Enhancements of the website over the year now enable the Welsh and English adverts to be displayed concurrently on the same page.

Complaints

The JAC did not receive any formal complaints directly in relation to the Welsh Language Scheme.

Progress against action plan

The reporting standards previously established for the JAC Welsh Language Scheme remained the same over 2020–21: availability of the Scheme; advice and guidance; digital capability; new and revised policies and monitoring and review.

Updates to the action plan over 2020–21 are in bold below.

Theme and reference	Activity	Target Date	Progress	Status
Availability	Publish the Scheme on the JAC website and intranet	March 2016	Complete	Complete. Publication delayed by the pre-election period for the National Assembly for Wales 2016 election, and published on 23 May 2016.
Advice and guidance	Develop internal guidance to accompany policy including assessment of language skills and knowledge of divergence in law, devolution arrangements etc.	March 2016 initial publication. Review of relevant policy documents ongoing	Complete Ongoing	Complete – guidance available to all staff from March 2016 A training session was held for operational staff in April 2016 prior to implementation. Refresher training sessions have also been undertaken during the period 2020-21
Digital capability	New JAC Digital Platform has been developed and enhanced over 2020-21	Ongoing	Deferred	The availability of application forms in Welsh will be taken forward in the next 12 months.
New and revised policies	Consider the impact of new and revised policies in the Welsh Language Scheme	Ongoing	Implementation will be monitored on an ongoing basis	Ongoing. Candidates are now able to provide any narrative section in a Qualifying Test in Welsh, which is then translated.
Monitoring and review	Prepare an Annual Monitoring Report for the Welsh Language Commissioner which will be made available to the Commission Board and Executive; MoJ Welsh Language Co-ordinators, MoJ Sponsorship and Welsh Liaison Judge	Annual		Complete: Annual Monitoring Report 2016–17 published October 2017 Annual Monitoring Report 2017–18 published November 2018 Annual Monitoring Report 2018-2019 published December 2019 Annual Monitoring Report 2019-2020 published November 2020

				Annual Monitoring Report 2020-21 published September 2021
--	--	--	--	--

5. The Welsh Matters Committee

The Welsh Matters Committee is a sub-committee of the JAC Commission Board. The Committee was comprised during this period of JAC Commissioner with special knowledge of Wales the Rt. Rev. Dr. Barry Morgan as chair of the Committee, with Commissioners District Judge Mathu Asokan and Brie Steven-Hoare QC as Committee members.

The inaugural meeting of the Welsh Matters Committee was held on 9 March 2017, and the Committee sits every other month.

The primary purpose of the Committee is to monitor the potential impact of devolution in Wales on the appointments process for judicial posts across England and Wales, and to ensure that the Commission is aware of the needs of Wales.

Over the reporting year, the Committee has:

- Participated in the Legal Wales Conference in October 2020
- Continued the monitoring of developments of the Wales Training Committee to make sure the JAC testing of Welsh knowledge takes account of the Judicial College's work in dealing with the training implications of devolved legislation
- Monitored the delivery of selection exercises in Wales

The Welsh Matters Committee has responded on behalf of the JAC to the following consultation that may affect the Welsh legal landscape:

- Law Commission – Devolved Tribunals in Wales