



Judicial Appointments Commission Welsh Language Scheme

**2021 - 22 Annual Monitoring Report to the Welsh Language
Commissioner**

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1. Introduction

This is the sixth Welsh Language Scheme Annual Monitoring Report prepared by the Judicial Appointments Commission (JAC) covering the period from 1 April 2021 to 31 March 2022. 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 95 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 2021-22 the JAC has conducted an open recruitment exercise to increase the number of lay panel members. It is anticipated that these new members will join the cadre throughout 2022-23. Selection exercises where Welsh language skills are required are usually quality assured by the JAC Commissioner with special knowledge of Wales.

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 2021- 22

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 2021– 31 March 2022 to give an overview of judicial recruitment in Wales.

31 selection exercises were finalised and reported in 2021–22. 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 exercises identified vacancies in Wales that had an essential Welsh language requirement in addition to testing the candidates' understanding of the administration of justice in Wales:

- **Deputy District Judge (00007).** Welsh language was an essential requirement for one post in the selection exercise for Deputy District Judge. The national exercise launched on 14 April 2020 with 150 vacancies across England and Wales. 136 candidates were recommended with seven candidates recommended as suitable for posts in Wales. There was no candidates recommended as suitable for appointment for the Welsh speaking post.
- **Recorder (00033)** Welsh language was an essential requirement for three posts in the selection exercise for Recorder. The national exercise launched on 2 September 2020 with 164 vacancies across England and Wales. 164 candidates were recommended with 16 candidates recommended as suitable for posts in Wales and one candidate recommended as suitable for appointment for the essential Welsh language post. We were therefore unable to fulfil the full vacancy request for at least three essential Welsh speaking posts.
- **District Judge (00019).** Welsh language was an essential requirement for one post in the selection exercise for District Judge. The national exercise launched on 23 September 2020 with 106 vacancies across England and Wales. 57 candidates were recommended overall with seven candidates recommended as suitable for posts in Wales and an additionally three candidates also recommended for essential Welsh language posts.

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:

- **Fee-Paid Legal Members of the Mental Health Review Tribunal of Wales (00014).** The exercise for Fee-Paid Legal Members of the Mental Health Tribunal of Wales launched on 20 February 2020 with 20 vacancies. All candidates were assessed on their understanding of the administration of justice in Wales. 19 candidates were recommended as suitable for appointment.
- **Senior Circuit Judge, Resident Judge (Cardiff) (00064).** The exercise for Senior Circuit Judge, Resident Judge (Cardiff) launched on 22 June 2021 with one vacancy. All candidates were assessed on their understanding of the administration of justice in Wales. One candidate was recommended as suitable for appointment.
- **Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) (00021).** The exercise for Fee-paid Judge of the First-tier Tribunal and fee-paid Judge of the Employment Tribunals (England and Wales) launched on 14 April 2020 with 374 vacancies. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. Overall, 207 candidates were recommended for appointment to the office of Fee-paid Judges of the First-tier Tribunal, with 25 candidates recommended as suitable for appointment to posts in Wales. 167 candidates were recommended for appointment to the office of Fee-paid Judge of the Employment Tribunal (England and Wales), with 18 candidates recommended as suitable for appointment to posts in Wales.

- **Deputy District Judge (Magistrates Court) (00051)** The exercise for Deputy District Judge launched on 2 March 2021 with 55 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. 55 candidates were recommended, with three candidates recommended as suitable for appointment to posts in Wales.
- **Circuit Judge (00062).** The exercise for Circuit Judge launched on 17 May 2021 with 78 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. 62 candidates were recommended with nine candidates recommended as suitable for appointment to posts in Wales.

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 Specialist Lay Members of the Mental Health Review Tribunal for Wales (00010).** The exercise for Fee-paid Specialist Lay Member of the Mental Health Review Tribunal for Wales had 24 vacancies and launched on 26 March 2020. This is a specialist role which required candidates to have knowledge of a range of educational, childcare, health or social care matters. 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 recommended 24 candidates for appointment.
- **Fee Paid Medical Member of the Mental Health Review Tribunal for Wales (00031).** The exercise for Fee Paid Medical Member of the Mental Health Review Tribunal for Wales had 17 vacancies and launched on 2 February 2021. This is a specialist role which required detailed specific medical 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 recommended 14 candidates for appointment.

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:

The Welsh Government did not request any assistance on any selection exercises over the 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 not used in any selection exercises which had posts in Wales over 2021-22.

Over the period 2021–22, we published Welsh translations of selection exercise material in the following exercises:

- District Judge (00077) which launched on 7 October 2021.
- Employment Judge (England and Wales) (00081) which launched on 2 November 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, 10 exercises were advertised bilingually on our website.

Staff have been reminded of the requirement for simultaneous translations in exercises involving posts in Wales and a series of training workshops is in progress as part of continual development and induction of new staff.

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 2021–22: availability of the Scheme; advice and guidance; digital capability; new and revised policies and monitoring and review.

Updates to the action plan over 2021–22 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 2021-22. The guidance was reviewed and expanded by the Welsh Matters Committee in October 2021.
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

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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:

- In September 2021, Dr Morgan met with the Welsh Language Liaison Judges to discuss topics of mutual interest.
- Attended the Legal Wales Conference in October 2021
- In January 2022, Dr Morgan met with the Presider in Wales, Mr Justice Griffiths, and the Welsh Language Liaison Judge to discuss topics of mutual interest.
- 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 not responded to any consultations during the period.