082: Recorder

Online Scenario Test
Evaluation and Feedback Report

March 2022

Purpose

The purpose of this report is to provide an evaluation of the 082 Recorder online scenario test as well as general feedback on candidate performance in the test.

The report describes how the Judicial Appointments Commission (JAC) developed the test and marking schedule, how the test was structured, and how the number of candidates shortlisted for progression was attained. Additionally, it provides information on the overall performance of candidates in the test, identifying areas of good and poor performance and sharing more detailed comments in relation to each of the five questions in the test.

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 proficiency and capability transferable to the role from other contexts. The specific bullet points under each competency heading were designed to reflect the skills and abilities that an effective Recorder is expected to have. This enabled us to assess candidates in a fair and consistent way.

Development of the test

The test and marking schedules were devised by three Circuit Judges.

In common with all the selection tools developed for this exercise, the scenarios and 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 be used as an effective tool to assess candidates. The teams also carried out further checks to confirm that the materials did not unfairly advantage or disadvantage any potential candidates taking the test 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 test was assessed by means of a dry run drawing upon a range of volunteers from relevant candidate groups. This provided an opportunity to trial the test material, the structure and timings of the test, and then make any necessary amendments.

Structure of the test

The test was hosted on the JAC digital platform. The test was 60 minutes long. Candidates were presented with a scenario and five questions.

Candidates were asked to take the role of an Independent Adjudicator appointed to hear a number of appeals arising from decisions made by the fictional 'Ellington Sport Centre Committee'.
The situations used in the questions were designed to reflect the kind of situations that may be encountered by a Recorder.

Candidates were required to provide written narrative responses to each of the five questions. Each question had a word limit and a maximum number of marks available. The word limit and marks for each question were as follows:

- Question 1: 15 marks, a maximum of 150 words
- Question 2: 11 marks, a maximum of 150 words
- Question 3: 8 marks, a maximum of 150 words
- Question 4: 8 marks, a maximum of 150 words
- Question 5: 16 marks, a maximum of 150 words

A maximum of 58 marks were available.

Marking of the test

- **507** candidates were invited to take the test
- **9** candidates withdrew from the process or didn't take the test
- **498** candidates took the test

The test submissions were anonymised and marked by a panel of judicial members. The judges were provided with a marking schedule setting out the number of marks available for each question and how the marks should be attributed. JAC staff provided a full briefing to the panel at the outset of marking the papers, and calibration was undertaken throughout, to ensure fairness and consistency.

Upon completion of the marking, a 9% sample of the test scripts were selected for moderation. This included the scripts identified as candidates for moderation by markers; samples of the high, low and mid scoring test papers; all test papers close to the prospective cut off point for invitation to selection days; and a further random sample.

Moderation took the form of markers cross checking each other's work. The moderation process concluded that the panels had been consistent and fair.

In line with JAC Policy, a Senior Selection Exercise Manager and the JAC Commissioner assigned to the selection exercise undertook separate quality assurance checks. Their independent conclusion was that marking had been robust and consistent.

Determining the order of merit

The scoring process was as follows: all candidates were scored on their answers to the test based on the marking schedule. All candidates were then ranked in order of merit, from first to last, based on the percentage score (further outlined below).

This provided a merit list determining how many candidates would be invited to the next stage of the exercise.

Candidates must score a minimum of 30% to be eligible to proceed to selection days. The line of shortlisting is determined by the relationship between the relative performance of candidates against each other in any given test, and how many available places there are in the next stage of the selection exercise. For this exercise the score at which the line of shortlisting fell for this test was **47%** and above.

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

Distribution of marks	Question 1	Question 2	Question 3	Question 4	Question 5	Total
Highest score	13/15 (2 candidates)	11/11 (11 candidates)	8/8 (5 candidates)	7/8 (4 candidates)	16/16 (23 candidates)	48/58 (1 candidate)
Lowest score	0/15 (6 candidates)	0/11 (32 candidates)	0/8 (112 candidates)	0/8 (250 candidates)	0/16 (6 candidates)	1/58 (1 candidate)

Approach to shortlisting

When the JAC receives notification from HMCTS confirming the final number of vacancies for the requested post, calculations are made to establish how many candidates will be taken to selection day (usually at a ratio of 2 or 3 candidates interviewed for each vacancy). This allows the JAC to estimate the number of candidates needed to progress after the shortlisting stages until the selection day ratio is reached.

For this exercise we received a vacancy request to fill **125** posts. We therefore planned the selection exercise based on inviting around **275** candidates to selection day.

All candidates who applied for the exercise were invited to sit the first stage online qualifying test, which involved Situational Judgement and Critical Analysis tests. The 507 most meritorious candidates were then invited to take the online Scenario Test. A total of 498 candidates completed the test.

To identify the top 275 candidates to proceed to selection day (subject to passing eligibility checks), the percentage score for each candidate was used to rank all candidates into a merit list, with the highest percentage score as the most meritorious and the lowest percentage score as the least meritorious. From this merit list, the 275th candidate had a score of 47%. The cut-off line was drawn amongst candidates with a score of 47% and it was agreed by a sub-committee of Commissioners that all 279 candidates who scored 47% or above would proceed to the next stage.

Equal Merit Provision
Where there are candidates with the same score at the cut off line, an Equal Merit Provision (EMP) may be applied in line with the JAC's published policy, which is available here. If the equal merit approach is applied, this will be after the consideration of a sub-committee of Commissioners; consisting of a legal Commissioner, a lay Commissioner and the Assigned Commissioner for the exercise. The sub-committee will consider and will need to be satisfied that:
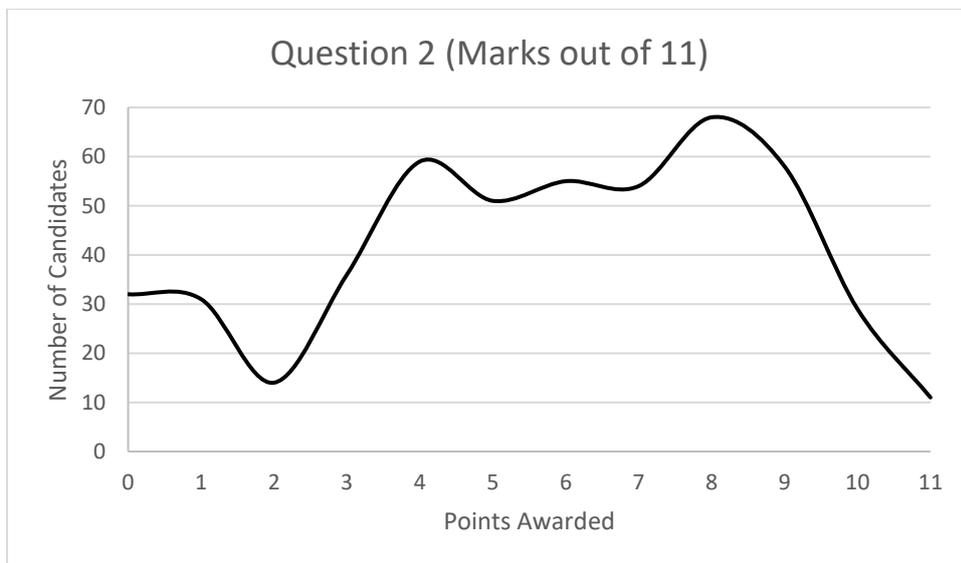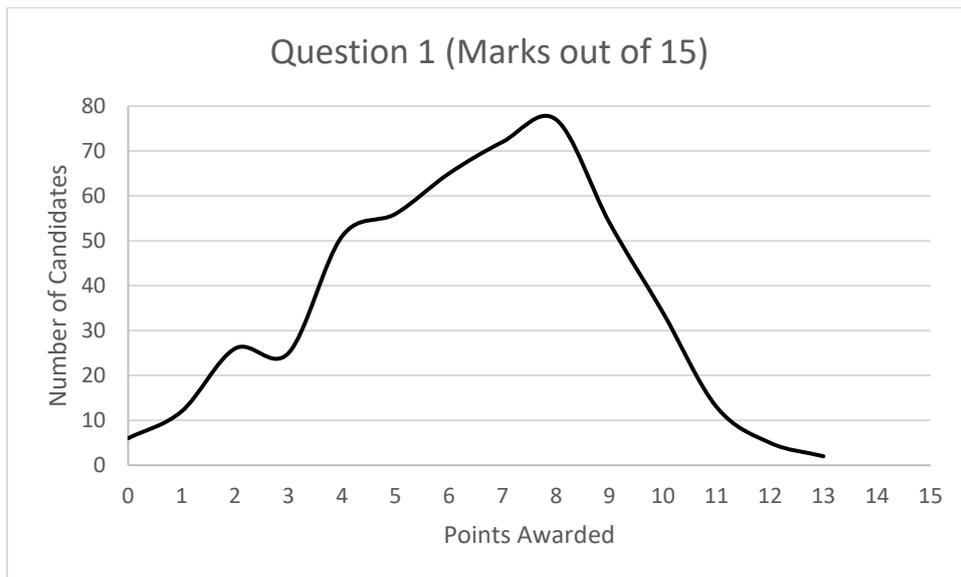
- the candidates about whom a decision is being taken are of equal merit.
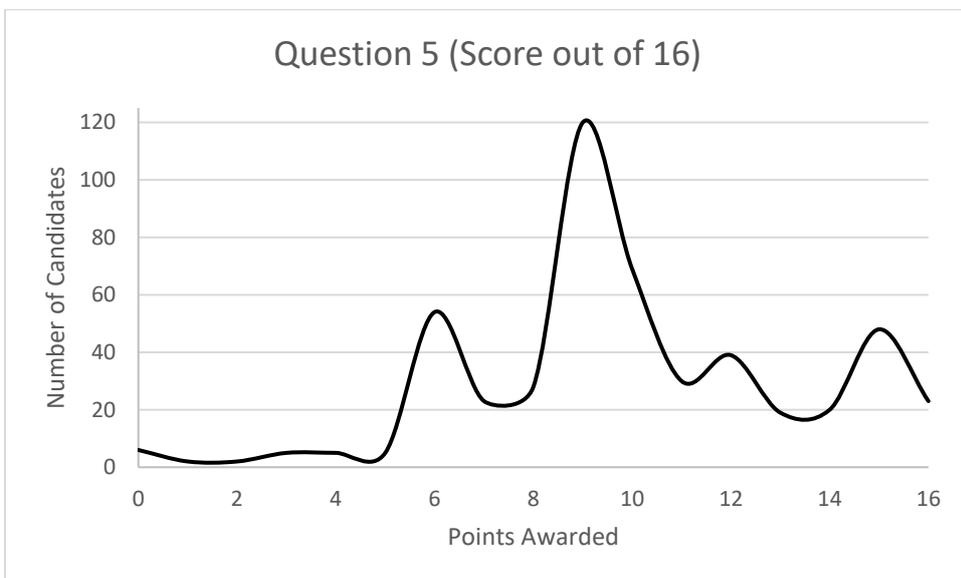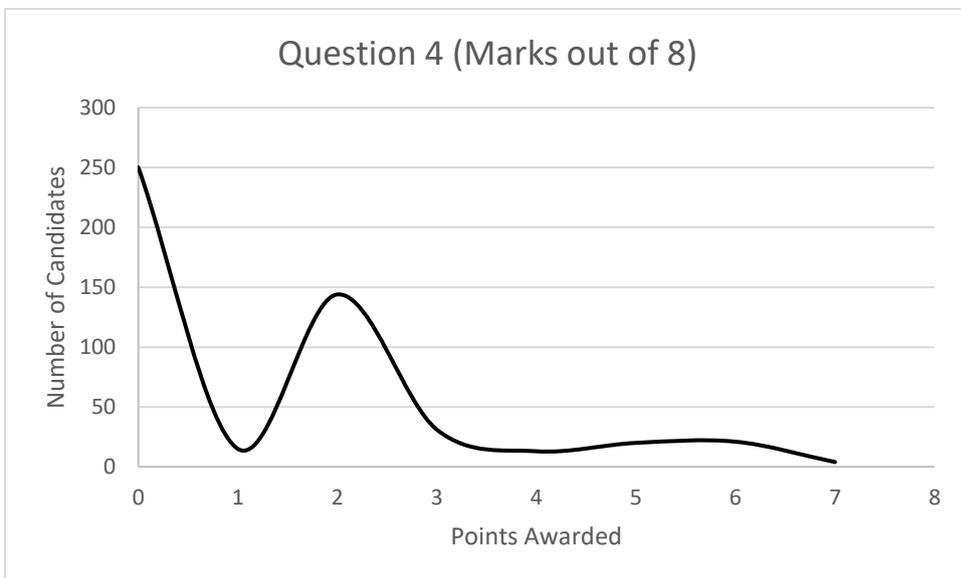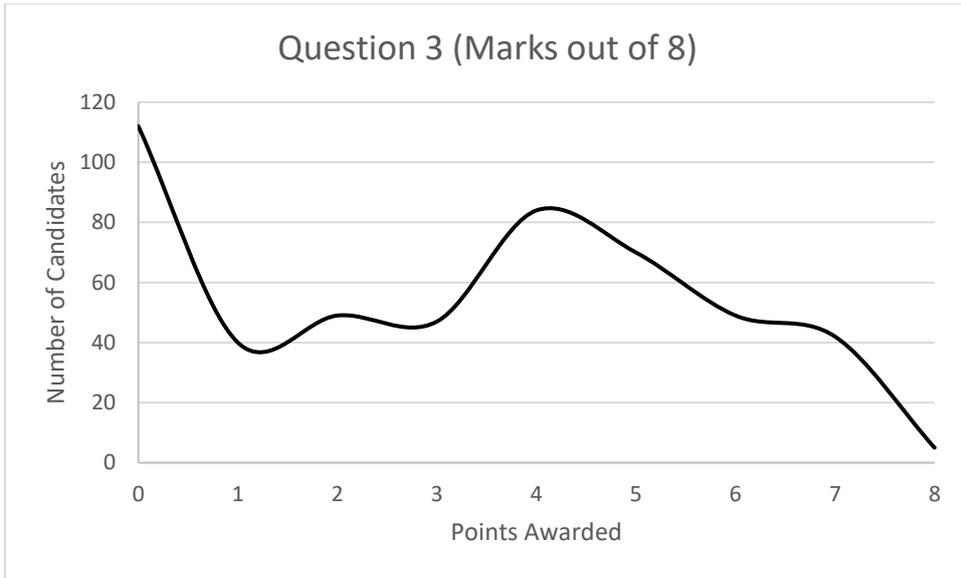
- the particular protected characteristic is underrepresented either in the judiciary as a whole or at the relevant level of judiciary.
- reliance on EMP in the shortlisting process being conducted is a proportionate means of achieving the aim of increasing diversity within the judiciary.

In line with this policy, it was determined an EMP did not need to be applied at this stage of the selection process.

Distribution of the scores

The charts below show the spread of scores for each question:

Question 1 (Marks out of 15)

Number of Candidates (y-axis, 0 to 80)
Points Awarded (x-axis, 0 to 15)

Question 2 (Marks out of 11)

Number of Candidates (y-axis, 0 to 70)
Points Awarded (x-axis, 0 to 11)

Question 3 (Marks out of 8)

Question 4 (Marks out of 8)

Question 5 (Score out of 16)

The chart below shows the spread of the final percentage scores:

Final Score Distribution
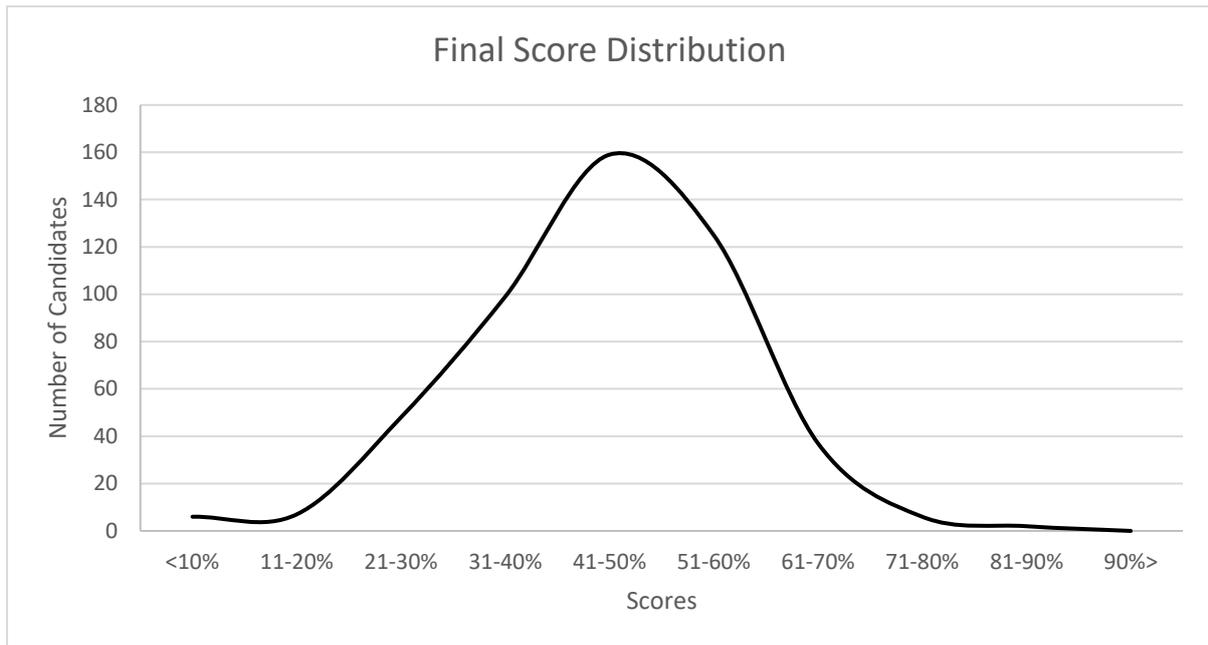
The lowest average candidate score was **1.7%** and the highest average candidate score was **82.8%**. The average candidate score was **45.1**%.

Feedback from the marking panels

In advance of marking the test, the marking panels were instructed to consider any common themes in the candidates' answers that could be included in the feedback report, which can be seen below.

All questions were designed to test a candidate's understanding of:

- Assimilating information (the Club's Rules).
- Weighing and balancing information.
- Applying law and procedure correctly.
- Coming to a reasoned decision.
- Giving clear reasons for decisions.
- Working and communicating with others.
- Applying the rules to the situation.
- Exercising judgement to make the best use of time.

Question 1

Candidates who scored well, included most or all the following in their answers:
- Planned their time effectively so that they allocated time based on the number of marks that could be awarded per question.
- Identified the key issues and systematically addressed them.
- Explained how they would communicate to the other panellists - thought about what they would say, how they would say it, while being supportive or authoritative when needed.
- Provided decisive, reasoned, easy-to-follow answers.

- Paid close attention to and referred to the application of specific rules, and the range of applicable rules.
- Confidently exercised appropriate judgement and analysis.

Candidates who performed less effectively:
- Identified issues without coming to clear decisions.
- Were not sufficiently authoritative. Instead of answering the question, they reframed it e.g. "I would be concerned about bias", or "I would consider whether or not to remove x from the panel because of …"
- Failed to refer to relevant Rules.
- Failed to recognise that the appellant, Hunt, did not need to be present in order for the appeal to be determined.
- Failed to identify the most significant issues: namely the bias of Ghosh and Jones.

Question 2

Candidates who scored well, included most or all the following in their answers:
- Wrote an adjudicator's report that would have been clear to the recipient.
- Stated in terms what parts of the appeal were allowed and what was dismissed.
- Set aside the relevant finding & stated that case was being remitted for rehearing.
- Identified the key issues by reference to the relevant rules and then applied them to arrive at the correct decision.
- Gave reasons for arriving at their decision.
- Clear about consequences of decision - differences between setting aside findings and penalties.

Candidates who performed less effectively:
- Misapplied the rules.
- Did not address the grounds of appeal in a structured way.
- Were unclear about the conclusions they had reached e.g. found 'a breach' but did not make clear whether that meant appeal was allowed or not.
- Did not explain what the consequences of each decision were.
- Sweeping statements that 'the findings stand' without further explanation or breaking down point by point.
- Incorrectly stated that it was not possible to reach a finding on balance of probabilities when it was one person's word against another.

Question 3

Candidates who scored well, included most or all the following in their answers:
- Stated in terms what parts of the appeal were allowed and what was dismissed.
- Stated in terms that the parking findings were set aside.
- Correctly identified that the parking matters had been dealt with informally and that the committee did not have jurisdiction to deal with them.
- Correctly spotted the point regarding suspension.
- Correctly remitted the suspension to the original committee for correction.

Candidates who performed less effectively:
- Went straight to penalties and did not take in stages.
- Did not follow through consequences of allowing appeal in part and were therefore muddled re: findings and penalties.
- Substituted own judgement, effectively conducting rehearing rather than appellate jurisdiction.
- Failed to identify the relevant Rules.
- Failed to identify that the suspension was too long.

Question 4

Candidates who scored well, included most or all the following in their answers:
- Identified that Mr Derrick had turned 17 by the time of the hearing and therefore was not entitled to have his father present.
- Identified that there was no jurisdiction for the panel to suspend a financial penalty, that the penalty needed to be set aside and remitted to the original committee for correction (rather than a fresh committee).
- Identified that the panel had no jurisdiction to reduce penalties.
- Set out decisions clearly, showing evidence in support and the legal basis, with reference to the specific rule.

Candidates who performed less effectively:
- Failed to identify the correct breaches of the Rules.
- Did not read the facts sufficiently, which resulted in failing to weigh and balance the information accurately.
- Did not apply the rules to the situation.
- Misunderstood limits on the powers available, misapplied discretion.
- Used unclear wording.

Question 5

Candidates who scored well, included most or all the following in their answers:
- Stated in terms that the appeal was allowed.
- Gave a clear reason and identified the relevant rule.
- Went one step further with Ali and explained why the Chair's remark did not remedy the perception of bias.
- Directed the right person to convene a fresh committee for a re-hearing in accordance with rule 35.

Candidates who performed less effectively:
- Did not state whether the appeal was 'allowed,' and spoke only of a 'procedural error'.
- Did not state how the identified procedural irregularities should be remedied.
- Were not sufficiently precise or used unclear wording.

Feedback from candidates

After the online scenario test, candidates were invited to complete an anonymous candidate survey.

91 candidates responded to the survey. Their responses have been summarised below:

- I was provided with sufficient preparatory material to answer the scenario test**:**

  - Around 89% of candidates agreed or strongly agreed
  - Around 4% of candidates neither agreed nor disagreed
  - Around 7% of candidates disagreed or strongly disagreed

- The scenario test gave me the opportunity to show how I would deal with the type of situation that could arise with this role:

  - Around 74% of candidates agreed or strongly agreed
  - Around 6% of candidates neither agreed nor disagreed
  - Around 20% of candidates disagreed or strongly disagreed

- The scenario test was accessible in terms of format, language used, and topics covered:

  - Around 89% of candidates agreed or strongly agreed
  - Around 2% of candidates neither agreed nor disagreed
  - Around 9% of candidates disagreed or strongly disagreed

- I am confident in the scenario test as a JAC selection tool:

  - Around 58% of candidates agreed or strongly agreed
  - Around 19% of candidates neither agreed nor disagreed
  - Around 23% of candidates disagreed or strongly disagreed

- The scenario test was easy to complete:

  - Around 67% of candidates agreed or strongly agreed
  - Around 15% of candidates neither agreed nor disagreed
  - Around 18% of candidates disagreed or strongly disagreed

28 June 2022