



# **Judicial Appointments Commission**

## **Welsh Language Scheme**

**2023 - 24 Annual Monitoring Report to the Welsh Language Commissioner**

## Contents

1. Introduction	3
2. Background	4
3. Recruitment	5
4. Monitoring the Welsh Language Scheme	8
5. The Welsh Matters Committee	11

## 1. Introduction

This is the eighth Welsh Language Scheme Annual Monitoring Report prepared by the Judicial Appointments Commission (JAC) and it covers the period from 1 April 2023 to 31 March 2024. The report 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 2023-24 the JAC has continued to conduct an open recruitment exercise to increase the number of lay panel members, and these new members joined the cadre throughout 2023-24, including a Welsh speaking member. 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 2023-24**

The JAC reports annually on the number of exercises completed within a reporting year.<sup>1</sup> 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 2023– 31 March 2024 to give an overview of judicial recruitment in Wales.

35 selection exercises were finalised and reported in 2023–24. 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.

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<sup>1</sup> <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:**

- **Employment Judge (England and Wales) (00132).** Welsh language was an essential requirement for one post in the selection exercise for Employment Judge (England and Wales). The national exercise launched on 14 March 2023 with 50 vacancies across England and Wales. 20 candidates were recommended with no candidate recommended as suitable for appointment for the Welsh speaking post.
- **Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) (00117).** The joint exercise for Fee-paid Judge of the First-tier Tribunal and Fee-paid Judge of the Employment Tribunals (England and Wales) launched on 21 March 2023 with, 229 vacancies<sup>2</sup> which includes three Welsh language posts in the Fee-paid Judge of the Employment Tribunal (England and Wales) exercise. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. Overall, 179 candidates were recommended for appointment to the office of Fee-paid Judges of the First-tier Tribunal, with 11 candidates recommended as suitable for appointment to posts in Wales. Overall, 50 candidates were recommended for appointment to the office of Fee-paid Judge of the Employment Tribunal (England and Wales), with four candidates recommended as suitable for appointment to posts in Wales, however no candidates were recommended to the Welsh speaking posts<sup>3</sup>.

**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:**

- **Circuit Judge (00110).** The exercise for Circuit Judge launched on 14 July 2022 with 92 vacancies. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. 10 candidates were recommended as suitable for appointment to posts in Wales.
- **District Judge (00115).** The national exercise launched on 08 September 2022 with 100 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. 49 candidates were recommended with seven candidates recommended as suitable for posts in Wales.
- **Deputy District Judge (00120).** The exercise for Deputy District Judge launched on 27 September 2022 with 116 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. 116 candidates were

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<sup>2</sup> Candidates can be appointed to both roles.

<sup>3</sup> Appointable candidates not selected in this financial year will have their selections confirmed in the next reporting year

recommended, with five candidates recommended as suitable for appointment to posts in Wales.

- **Judge of the First-tier Tribunal (00129).** The national exercise for Judge of the First-tier Tribunal launched on 21 February 2023 with 70 vacancies across most Chambers. Those candidates who were interested in a Welsh post were assessed on their understanding of the administration of justice in Wales. 47 candidates were recommended with six candidates recommended as suitable for appointment to posts in Wales.
- **Deputy District Judge (Magistrates' Court) (00133).** The national exercise for Deputy District Judge (Magistrates' Court) launched on 8 March 2023 with 15 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. 15 candidates were recommended with three candidates recommended as suitable for appointment to posts in Wales.
- **Salaried Judge of the Mental Health Review Tribunal for Wales (MHRTW) (00149).** The exercise for Salaried Judge of the Mental Health Review Tribunal for Wales (MHRTW) launched on 30 March 2023 with two vacancies. All candidates were assessed on their understanding of the administration of justice in Wales. There were two candidates recommended as suitable for appointment.

**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 Farmer Lay Member and Landowner Lay Member of the First-tier Tribunal, Property Chamber, Agricultural Land and Drainage, and Landowner Lay Member and Farmer Lay Member of the Agricultural Land Tribunal (Wales) (00166).** This exercise was a joint exercise between the First-tier Tribunal with six vacancies (two for Landowner Lay Members and four for Farmer Lay Members) and the Agricultural Land Tribunal (Wales) with five vacancies (two for Landowner Lay Members and three for Farmer Lay Members) and launched on 26 July 2023. This is a specialist role which required detailed knowledge about landownership and farm management. In light of the specific 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 six candidates for appointment in the First-tier Tribunal, Property Chamber and three candidates for the Agricultural Land Tribunal (Wales).

**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:**

- **President of the Adjudication Panel for Wales (00155).** This exercise launched on 14 February 2023 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 to posts in Wales.

- **President and Deputy President of the Adjudication Panel for Wales (00192).** This exercise launched on 28 September 2023 with two vacancies. All candidates were assessed on their understanding of the administration of justice in Wales. Two candidates were recommended as suitable for appointment to posts in Wales.

## 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 2022-23.

Over the period 2023–24, we published Welsh translations of selection exercise material in the following exercises:

- Recorder (00162) which launched on 15 June 2023.
- Circuit Judge (00171) which launched on 18 July 2023.
- District Judge (00172) which launched on 07 September 2023.
- President of the Welsh Language Tribunal (00193) which launched on 13 March 2024.
- District Judge (Magistrates' Court) (00185) which launched on 19 March 2024.
- Deputy District Judge (0184) which launched on 19 March 2024.

Enhancements of the website over the year enable Welsh and English language information pages to be in the same format and to enable the easy and prominent ability to switch between the languages, as required. The Welsh language application form, which was developed in the 2022-23 report continues to be embedded and developed based on candidate feedback throughout the year.

### 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 2023–24: availability of the Scheme; advice and guidance; digital capability; new and revised policies and monitoring and review.

Updates to the action plan over 2023–24 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  Complete	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 throughout 2023-24.	Ongoing	Ongoing	<b>Following the introduction of Welsh language application forms last year. The digital capability has increased throughout 2023-24. Exercises are able to launch with a consistent Welsh and English language versions of the exercise information page in the same format and easy and prominent ability to switch between the two languages. Whilst this is further tested throughout 2024-25 and taking on board candidate feedback to consider further refinements.</b>
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		<p>Complete:</p> <p>Annual Monitoring Report 2016–17 published October 2017</p> <p>Annual Monitoring Report 2017–18 published November 2018</p> <p>Annual Monitoring Report 2018-2019 published December 2019</p> <p>Annual Monitoring Report 2019-2020 published November 2020</p> <p>Annual Monitoring Report 2020-21 published September 2021</p> <p>Annual Monitoring report 2021-22 published September 2022</p> <p>Annual Monitoring report 2022-23 published September 2023</p> <p><b>Annual Monitoring report 2023-24 published September 2024.</b></p>

## 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 Tribunal Judge Noel Arnold and Brie Stevens-Hoare KC as Committee members. District Judge Mathu Asokan's term as Commissioner ended in 2023, and so she stood down from the committee at the end of her term.

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 wider Commission is aware of the needs of Wales.

Over the reporting year, the Committee has:

- In May 2023, Dr Morgan alongside the Chair of the JAC, Helen Pitcher OBE, met with the Counsel General of Wales, Mick Antoniw as an introductory meeting and to discuss topics of mutual interest.
- In June 2023, Dr Morgan met the President of Welsh Tribunals, Sir Gary Hickinbottom to discuss topics of mutual interest.
- In October 2023, Dr Morgan attended the opening of the Legal Year service in Llandaff Cathedral.
- In February 2024, Dr Morgan alongside the Chair of the JAC, Helen Pitcher OBE, met with the Counsel General of Wales, Mick Antoniw to discuss matters of mutual interest.
- Considered the evaluation of the pilot to the use of non-live video assessments for the assessment of candidates knowledge of the administration of justice questions in Wales and agreed to implement it over 2024-25.
- 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 Chair of the JAC, on behalf of the Welsh Matters Committee, responded to the Welsh Government White Paper 'A New Tribunal System for Wales' in September 2023.