

Online Scenario Test Evaluation and Feedback Report

**00203: Fee-paid Judge of the First-tier Tribunal
September 2024**

Purpose

The purpose of this report is to provide an evaluation of the Fee-paid Judge of the First-tier Tribunal 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 three 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; and
- 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 Fee-paid Judge of the First-tier Tribunal 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 a Judge of the First-tier Tribunal.

In common with all the selection tools developed for this exercise, the scenarios and situational 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 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 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 advice and guidance on the development of selection material, quality assures the material, and considers – and mitigates – any negative impacts on diverse groups.

The effectiveness of the test was assessed by means of a mock assessment with a range of volunteers from relevant candidate groups. This provided an opportunity to trial the test material, and the structure and timings of the test, and then make any necessary amendments.

Structure of the test

The test was hosted on the JAC platform. The test was 80 minutes long. Candidates were presented with a scenario and three questions.

A new Tribunal has been set up by the Department for Transport (DfT) to deal with appeals against decisions made by local authorities as to speed limits on certain public roads. The scenario involved an appeal by a local business owner against a proposed new speed limit on a length of road.

The situations used in the questions, while based on a fictitious tribunal, are real-life situations that may be encountered by a Judge of the First-tier Tribunal.

Candidates were required to provide narrative responses to each of the three 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: 26 marks	a maximum of 500 words
Question 2: 24 marks	a maximum of 300 words
Question 3: 47 marks	a maximum of 600 words

Marking schedule

A marking schedule was provided to the panels. A maximum of 97 marks were available.

Marking of the test

The candidate's test submissions were anonymised and marked by a panel of judicial members. There were nine judicial markers. JAC staff provided a full briefing to the markers at the outset of marking the papers.

535 candidates sat the test. A 10% sample of the test scripts were selected for moderation in addition to those already discussed by judicial markers at the calibration meetings. The test scripts selected for moderation included those identified by markers; samples of the high, low and mid scoring test scripts; all test scripts 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.

Distribution of scores

550 candidates were invited to take the test.

15 candidates withdrew from the process or did not take the test.

535 candidates took the test.

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 their percentage score (further outlined below).

This provided a merit list determining how many candidates would be invited to the next stage of the exercise based on the approach outlined. The highest **347** scoring candidates from the scenario test were shortlisted through to selection days.

We did not have a pre-determined pass mark for the test; however, candidates must score a minimum of 30%. 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 slots there are for the next stage of the selection exercise. For this exercise the score at which the line of shortlisting fell 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	Total
Highest score	20/26 (2 candidates)	18/24 (5 candidates)	44/47 (1 candidate)	77/97 (1 candidate)
Lowest score	0/26 (3 candidate)	0/24 (4 candidates)	0/47 6 candidates)	0/97 (2 candidate)
Average score	10/26 (43 candidates)	11/24 (58 candidates)	30/47 (33 candidates)	51/97 (19 candidates)

Approach to shortlisting

When the JAC receives notification from HM Courts & Tribunals Service (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 us to estimate the number of candidates we need to progress after the shortlisting stages until we reach the selection day ratio.

For this exercise we received an initial vacancy request to fill 120 posts. Vacancy requests are generated by HMCTS based upon the needs of the courts and tribunals. We received notification from HMCTS in August 2024 that the vacancy request for this exercise had been increased to 150 posts.

All candidates who registered for the exercise were invited to sit the online qualifying test, which involved a situational judgement and critical analysis test. 550 candidates were invited to take the online scenario test. 535 candidates completed the test.

We planned to take 337 candidates to selection days.

The percentage score for each candidate is 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.

The number of slots available in the next stage of the process is then applied onto the merit list to create the initial cut off line.

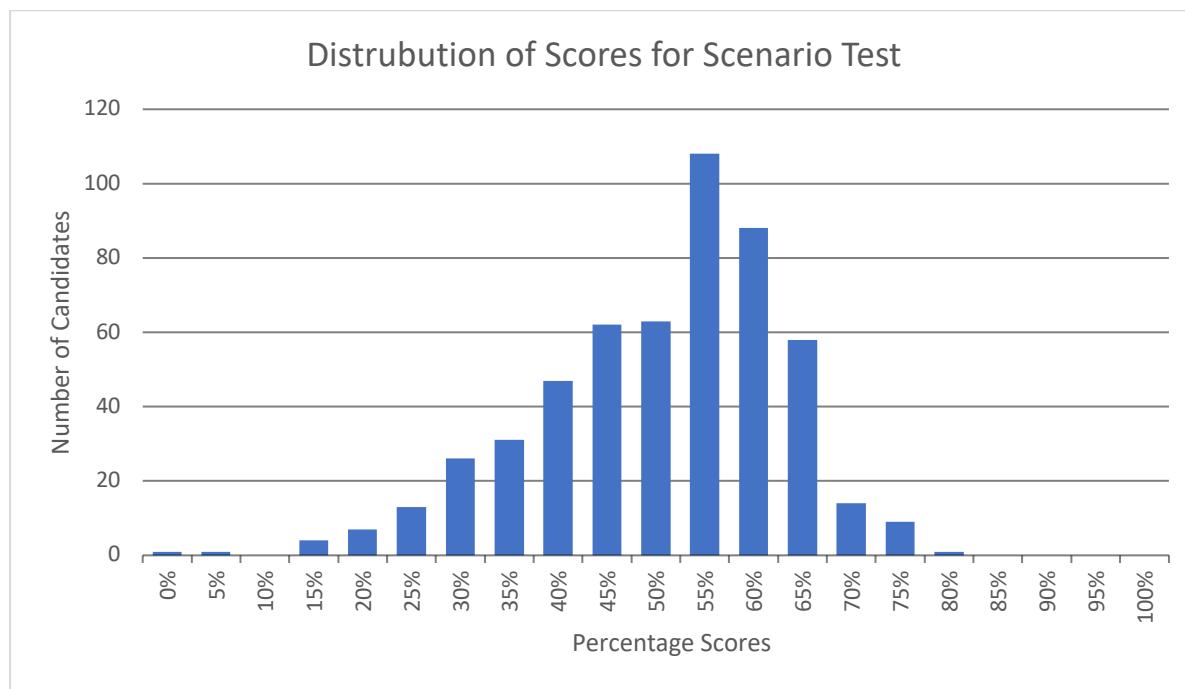
Equal Merit Provision

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](#). 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 judicial diversity.

EMP was not applied at this stage of the selection process, it was decided that all 347 candidates that scored 47% or above be invited to selection day.

The distribution of scores is shown in the graph below, with scores grouped by rounding to the nearest 5%.



The average candidate scores for this test were as follows: lowest rounded candidate score was **0%**, highest rounded candidate score was **80%**. The average rounded candidate score was **50%**.

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.

Question one

Question one was designed to test the candidate's understanding of how they would consider applications to intervene as an interested party and make the appropriate directions to move the hearing.

Candidates who scored well:

- Dealt with the adjournment issue.

- Mentioned the Equal Treatment Bench Book, the legislation and rule numbers in regard to format of hearings and provided detail of rule 1.
- Understood the relevance of Ms Davies' evidence.
- Identified factors that are relevant for consideration under section 20 and rule 5.
- Made clear, reasoned and structured decisions within the time limit.

Candidates who performed less effectively:

- Did not enquire with office/admin/others as to facilities available for the hearing centre.
- Did not mention legislation and rules numbers in regard to format of hearings.
- Did not address Ms Davies' evidence and were more focused on her broken leg.
- Provided less clear or structured responses within the time limit.

Question two

Question two was designed to assess the candidate's understanding of how they would proceed with a hearing and the decision they made. This was about addressing the environmental report and any other directions or arrangements that candidates would put in place to facilitate the hearing of the appeal.

Candidates who scored well:

- Made introductory remarks, referred to the Equal Treatment Bench Book for reasonable adjustments and clarified any application being made.
- Mentioned the overriding objective in rule 1.
- Dealt with concerns about parity and referred to equal footing to avoid delay.
- Noted the lack of powers to award costs.
- Made clear, reasoned and structured decisions within the time limit.

Candidates who performed less effectively:

- Did not note that the appeal should be heard at a local venue.
- Did not note that the appeal will be decided on evidence considered by the judge objectively.
- Failed to mention the overriding objective.
- Provided less clear or structured responses within the time limit.

Question three

Question three was designed to test the candidate's judgement and the reasonings of their decisions.

Candidates who scored well:

- Identified the issues to be decided in the appeal.
- Identified evidence or submissions which were considered and why each was relied on or not.
- Referred to the original written response to the appeal from the local authority who made the designation.
- Referred to the local amenities within the designated area.
- Clearly identified that the appeal has been dismissed or if allowed that the designation order has been revoked/amended.
- Made clear, reasoned and structured decisions within the time limit.

Candidates who performed less effectively:

- Did not outline the evidence considered, neither oral nor written.
- Did not look for a summary of who spoke, and which documents were considered.
- Provided less clear or structured responses within the time limit.

Feedback from candidates

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

A total of **172** candidates responded to the survey.

I was provided with sufficient preparatory material to answer the scenario test.

89% of the candidates agreed or strongly agreed;
4% of the candidates neither agreed nor disagreed; and
7% of the candidates either 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.

75% of the candidates agreed or strongly agreed;
11% of the candidates neither agreed nor disagreed; and
14% of the candidates either disagreed or strongly disagreed.

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

87% of the candidates agreed or strongly agreed;
4% of the candidates neither agreed nor disagreed; and
9% of the candidates either disagreed or strongly disagreed.

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

62% of the candidates agreed or strongly agreed;
24% of the candidates neither agreed nor disagreed; and
14% of the candidates either disagreed or strongly disagreed.

The scenario test was easy to complete.

27% of the candidates agreed or strongly agreed;
24% of the candidates neither agreed nor disagreed; and
49% of the candidates either disagreed or strongly disagreed.