

## **Post Selection Day Evaluation and Feedback Report**

**00169 Deputy Judge of the Upper Tribunal,  
Immigration and Asylum Chamber**

**November - December 2023**

## Purpose

The purpose of this report is to provide an evaluation of the selection days for **Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber** as well as capture general feedback on candidate performance. The report describes how selection days were undertaken by both panels and candidates; including what characterised stronger and weaker demonstrations of the skills and abilities needed to fulfil the requirements of this role.

## Skills and Abilities Framework

At selection day, the situational questions and interview were designed to assess the following skills and abilities:

### Legal and Judicial Skills

- Exceptional intellect.
- Analysis of complex issues, reaching clear reasoned decisions.
- Expertise in their chosen field and the ability to master other areas of the law as necessary.
- Grasp of what underpins a fair hearing.

### Personal Qualities

- Integrity and independence of mind.
- Resilience and calm under pressure.
- Attentive listener, clear communicator.
- Courteously authoritative, even in complex and demanding situations.
- Understanding and treating fairly, different individuals, communities and groups.

### Working Effectively

- A team player, seeking and offering candid advice when needed.
- Efficiently despatching business, including by supporting staff.
- Supporting change throughout the judiciary.
- Aware of the role of the judge in twenty-first century society.

The assessment criteria were developed so that candidates could demonstrate their proficiency and capability transferable to the role from other contexts. The specific behavioural indicators under each skill and ability heading were designed to reflect the aptitude and faculty that an effective Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber is expected to have. This enabled us to assess candidates in a fair and consistent way.

## Performance of candidates

267 candidates applied for this exercise. 167 candidates were invited to selection day following a name blind paper sift, which included utilising the Equal Merit Provision, as detailed on our website [here](#). In February 2024, due to a change in business need, HMCTS increased the vacancy request from 50 to 71. The 71 highest graded candidates at selection day were therefore recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment. This took into account all relevant character checks, and all evidence provided by the candidates at selection day as well as the candidates' independent assessments.

## **Selection day**

Selection days were held remotely via Microsoft Teams between 24 November and 6 December 2023.

### **Situational questions**

#### **Development**

The situational questions were drafted by an Upper Tribunal Judge of the Immigration and Asylum Chamber. In common with all the selection tools developed for this exercise, the 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 JAC Advisory Group, which is composed of members of the judiciary and representatives of the legal professions and chaired by a lay JAC Commissioner, offered advice and guidance during their development.

The effectiveness of the situational questions 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 make any necessary amendments prior to its use on the exercise.

#### **Structure of the situational questions**

The situational questions were designed to assess how candidates would respond to scenarios that are likely to arise in the role of a **Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber**. There were two written scenarios centred around appeals arising from the First-tier Tribunal.

Each scenario included a series of questions for the candidates to answer orally within 30 minutes overall. For the purpose of the situational questions, candidates were asked to assume they were a newly appointed Deputy Judge of the Upper Tribunal.

#### **Advance preparation**

A week in advance of selection days, candidates received pre-reading material with which they were asked to familiarise themselves. Candidates were sent the following reading:

- Nine case laws
- The Tribunals Procedures (Upper Tribunal) Rules 2008 (consolidated version)
- Article 1A of the Refugee Convention
- Three documents on the decision of a case, the grounds of appeal in that case and the grant of permission in that case.

At selection day, candidates were allocated 45 minutes preparation time to review and familiarise themselves with the two scenarios they were presented with alongside the prereading materials sent in advance.

#### **Assessment of candidates' responses to the situational questions**

The evidence for each **skill and ability** is assessed as either outstanding, strong, sufficient or insufficient. The panels then make a final overall assessment of candidates as either outstanding, strong, selectable or not presently selectable.

Outstanding evidence included:

- Identifying most of the criteria from R (Iran) when answering the question about what is an error of law.
- Identifying how to deal with the issue by hearing submissions while sitting as a First-tier Tribunal Judge and the applicable test, as per Hysaj.
- Appreciating that an oral decision would be best, with a written decision after. Deferring a decision on timeliness until after hearing argument on merits was also justified.
- Appreciating that the appellant may be a vulnerable person due to her possible mental health issues.
- Explaining that the Home Office has to show that the Ladd v Marshall test is met, or that there is some other reason why fairness would require the document to be admitted.
- Explaining the tests to the appellant in simple language.
- Explaining the processes if the document was or was not admitted as evidence in a clear manner and legally accurate.

Strong evidence included:

- Identifying at least five of the criteria from R (Iran).
- Identifying the timeliness issue but only with prompting and might not know he/she has to sit as a First-tier Tribunal Judge to deal with the matter.
- Being less clear in identifying the errors and explaining them.
- Appreciating that the appellant may be a vulnerable person due to her possible mental health issues.
- Explaining that the Home Office has to show that the Ladd v Marshall test is met, or that there is some other reason why fairness would require the document to be admitted.
- Explaining the tests to the appellant in simple language.
- Explaining why the document is or is not to be admitted.

Sufficient evidence included:

- Identifying at least four of the criteria from R (Iran).
- Having difficulty in identifying all of the errors and explaining them coherently.
- Explaining what the purpose of the hearing is and who will speak first, etc.
- Appreciating that the appellant may be a vulnerable person due to her possible mental health issues.
- Explaining that the Home Office has to show that the Ladd v Marshall test is met, or that there is some other reason why fairness would require the document to be admitted.
- Explaining the tests to the appellant in simple language.

Insufficient evidence included:

- Identifying three or fewer of the criteria from R (Iran).
- Failing to identify where there are errors, identifying errors where there are none, or failing to explain why there are errors (or not).
- Failing to identify the relevant tests.
- Failing to explain to the appellant what principles will apply.
- Failing to explain why the document is or is not to be admitted.
- Failing to explain what the consequences are for that, and how the hearing will proceed.
- Failing to explain any timescale.

## **Skills and Abilities based interview**

Each candidate then had a **skills and abilities** based interview. Here the panel was seeking further evidence and examples from the candidate of the required skills and abilities and in the context of the role of **Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber**. The panel also drew upon evidence provided in the candidate's statement of suitability and career history to inform their questioning.

### **Legal and Judicial Skills**

#### Outstanding evidence included:

- Providing an example which was genuinely complex, both legally and in terms of procedure, and explaining what they did to learn the practicalities and the research they undertook.
- Demonstrating an exceptional intellect and an ability to analyse complex issues.
- Demonstrating a strong understanding of the role of a Deputy Judge of the Upper Tribunal and explained how they would prepare for this role, showing how they would master a new area.
- Providing a complex example of having to analyse the strong but competing evidence in linked and finely balanced protection and revocation claims, identifying key issues, the material evidence and explaining how they decided the case.

#### Strong evidence included:

- Demonstrating an ability to master new areas of law but where there was room for this to be developed further.
- Demonstrating the candidate's knowledge of the law in their chosen area and providing evidence of their ability to analyse complex matters but could have been developed further.
- Providing a basic answer on the differences between their current role and that of an Upper Tribunal Judge which could have been expanded on.

#### Sufficient evidence included:

- Providing an example of a complex case - but it was not legally complex, rather it involved mastering the facts at short notice.
- Demonstrating an ability to master other areas of law, but where the example could have been better developed with a clear outcome set out.

#### Insufficient evidence included:

- Providing examples that lacked complexity and in their response not structuring the answer clearly or effectively explaining what they did.
- Demonstrating evidence of tackling complex issues and expertise in their field, but overly focusing on describing the case rather than identifying the level of legal complexity.
- Not demonstrating an awareness of how the role of a Deputy Upper Tribunal Judge differs from their current judicial role.
- Not specifically addressing the questions asked.

### **Personal Qualities**

#### Outstanding evidence included:

- Demonstrating a clear understanding of integrity and fair treatment.
- Demonstrating how they adapted their approach to communicate with individuals.
- Providing a clear example of the form of words and analogies they used to break down a complicated explanation of the law in simple terms.
- Demonstrating how they have reflected on their experience and applied this learning to a wider context of their practice.
- Developing and delivering judicial training on understanding cultural differences in communication.

Strong evidence included:

- Demonstrating an understanding of treating different individuals fairly but needed more complexity of evidence.
- Demonstrating evidence of drawing on knowledge, skills, experience and seeking the support of colleagues, therefore evidencing resilience under pressure, but lacking detail of candidate's own actions.

Sufficient evidence included:

- Providing some evidence of resilience but minimal evidence of independence of mind.
- Providing relevant evidence of an ability to defuse tension and work collaboratively, but not during a significant challenge to their authority.
- Providing context of an example was high-pressure and showing some independence in responding to the challenges.

Insufficient evidence included:

- Responses that did not specifically address the questions asked.

## **Working Effectively**

Outstanding evidence included:

- Demonstrating their ability to despatch business efficiently, in the face of obstacles.
- Providing a perceptive statement indicating their support for the judiciary and their understanding of the role of the judge in twenty-first century society, including their personal commitment to inclusion and diversity.
- Providing an explanation that was comprehensive and provided persuasive evidence of an ability to effectively dispatch business and as well as work collaboratively with others.
- Evidencing a reflective approach and considering how they could have been more strategic at an earlier stage to avoid an initial reactive and corrective approach which was multi stranded and complex.

Strong evidence included:

- Providing an informed and relevant answer on the pressures and issues facing judges in 21st century society.
- Demonstrating an ability to be courteously attentive, and a clear communicator.

Sufficient evidence included:

- Providing non-complex or routine responses.
- Providing some evidence of being a team player but where more detail was required.
- Providing some evidence of the awareness of the role of the judge in twenty-first century.

Insufficient evidence included:

- Responses that did not specifically address the questions asked.

**Feedback from Candidates**

After the selection days, candidates were invited to complete an anonymous candidate survey. 55 candidates responded to the survey. The results are captured below:

**The quality of customer service I received from JAC staff on my selection day was:**

- 96% of candidates either agreed excellent or good.
- 4% of candidates answered fair.

**The instructions provided beforehand enabled me to prepare for the remote selection day:**

- 82% of candidates either agreed or strongly agreed.
- 11% of candidates neither agreed nor disagreed.
- 7% of candidates disagreed or strongly disagreed.

**I understood what was expected on the selection day:**

- 80% of candidates either agreed or strongly agreed.
- 7% of candidates neither agreed nor disagreed.
- 13% of candidates either disagreed or strongly disagreed.

**The timing given for preparation was sufficient:**

- 67% of candidates either agreed or strongly agreed.
- 13% of candidates neither agreed nor disagreed.
- 20% of candidates either disagreed or strongly disagreed.

**The situations discussed in the situational questioning were realistic and relevant to the role:**

- 78% of candidates either agreed or strongly agreed.
- 13% of candidates neither agreed nor disagreed.
- 9% of candidates either disagreed or strongly disagreed.

**The situational questioning allowed me to demonstrate my suitability for the role:**

- 60% of candidates either agreed or strongly agreed.
- 16% of candidates neither agreed nor disagreed.
- 24% of candidates either disagreed or strongly disagreed.

**The situational questioning gave me a chance to display how I would react to various situations:**

- 69% of candidates either agreed or strongly agreed.
- 16% of candidates neither agreed nor disagreed.
- 15% of candidates either disagreed or strongly disagreed.

**The timing allowed for the situational questioning was sufficient:**

- 71% of candidates either agreed or strongly agreed.
- 9% of candidates neither agreed nor disagreed.
- 20% of candidates either disagreed or strongly disagreed.

**I am confident in the situational questioning as a JAC selection tool:**

- 62% of candidates either agreed or strongly agreed.
- 29% of candidates neither agreed nor disagreed.
- 9% of candidates either disagreed or strongly disagreed.

**The interview questions gave me the opportunity to demonstrate my skills, abilities and competence for this role:**

- 58% of candidates either agreed or strongly agreed.
- 20% of candidates neither agreed nor disagreed.
- 22% of candidates either disagreed or strongly disagreed.

**The panel behaved professionally and treated me with respect:**

- 87% of candidates either agreed or strongly agreed.
- 9% of candidates neither agreed nor disagreed.
- 4% of candidates either disagreed or strongly disagreed.

**The timing allowed for the interview was sufficient:**

- 78% of candidates either agreed or strongly agreed.
- 15% of candidates neither agreed nor disagreed.
- 7% of candidates either disagreed or strongly disagreed.

**I am confident in the interview as a JAC selection tool:**

- 66% of candidates either agreed or strongly agreed.
- 18% of candidates neither agreed nor disagreed.
- 16% of candidates either disagreed or strongly disagreed.