JUDICIAL APPOINTMENTS COMMISSION

Post Selection Day Evaluation and Feedback Report

00170: Fee-Paid Medical Member of the First-tier Tribunal, Health, Education and Social Care Chamber (Mental Health)

May 2024

Purpose

The purpose of this report is to provide an evaluation of the selection days for 00170: Fee-Paid Medical Member of the First-tier Tribunal, Health, Education and Social Care Chamber (Mental Health), 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 competencies needed to fulfil the requirements of this role.

Competency framework

The selection day was divided into two parts. The first part was situational questioning, which was designed to assess the following competencies:

- Exercising Judgement
- Possessing and Building Knowledge
- Assimilating and Clarifying Information
- Working and Communicating with Others

The second part was a competency-based interview, which was designed to assess the following competencies:

- Working and Communicating with Others
- Managing Work Efficiently

The assessment criteria were developed so that candidates could demonstrate the proficiency and capability transferable to the role from other contexts. The specific behavioural indicators under each competency were designed to reflect the aptitude and faculty that an effective Medical Member of the Health, Education and Social Care Chamber (Mental Health) is expected to have. This enabled us to assess candidates in a fair and consistent way.

Additional selection criteria

Candidates' registration with the General Medical Council must be unconditional. Candidates must have also held a full-time or part-time appointment as a consultant psychiatrist for at least three years, one of which should normally be within the last five years. In addition to this, candidates were required to have membership of the Royal College of Psychiatrists at any of the following levels: Member; Fellow; or Specialist Associate.

Performance of candidates

A total of **92** candidates applied for this exercise. Due to the number of applications received, shortlisting (which would have taken the form of an online qualifying test) was waived and the **69** candidates who met the eligibility requirements for the post were invited to selection days, **35** candidates were recommended by the Judicial Appointments Commission to the Senior President of Tribunals for appointment. In making this decision, the Commission 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 16 May 2024 and 12 June 2024. Candidates who took part in remote interviews were provided with technical support to get ready for their selection day as detailed on the JAC website.

Development of the situational questions

The situational questions were drafted by a tribunal judge and the chief medical member from the jurisdiction. These were designed to assess relevant transferable skills, alongside their medical expertise in psychiatry as a result of the additional selection criteria. 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 volunteers from the relevant candidate groups. This provided an opportunity to trial the test material and make any necessary amendments.

Structure of the situational questions

Candidates were asked to undertake the role of a medical member during a pre-hearing discussion before a Mental Health Tribunal and to regard the selection day interview panel as the specialist tribunal panel member and the judge. Candidates were informed that they would be presented with questions that were representative of the type of case a medical member might encounter at the Mental Health Tribunal. The questions for the pre-hearing discussion were centred around a fictitious patient detained under Section 2 of the Mental Health Act 1983 who refused the pre-hearing examination. In their answers, candidates were expected to demonstrate their medical expertise in psychiatry to describe the patient's mental disorder, their assessment and the potential risk, if any, of discharging the patient. Candidates were provided with a medical report and a social circumstances report on the patient, these presented conflicting opinions as to whether the patient should remain detained in hospital or whether the risk presented by the patient could be managed in the community. Candidates did not have the benefit of a nursing report to inform their decision.

Advance preparation

A week in advance of selection days, candidates were provided with the Senior President of Tribunals' Practice Direction for the First-tier Tribunal, Health, Education and Social Care Chamber, with which they were asked to familiarise themselves.

At selection day, candidates were presented with the patient's medical report and their social circumstances report. Candidates were allocated 30 minutes to familiarise themselves with the reports and refresh themselves with the practice direction in readiness for the questions they would be asked during the situational questioning.

Assessment of candidates' responses to the situational questions

The evidence for each competency 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.

<u>Outstanding evidence included</u>:

- A highly detailed explanation of the International Classification of Diseases (ICD) medical classification codes. Fully and concisely explains pertinent codes ICD10 and ICD11. Explanations were simple to understand, without the use of medical jargon and acronyms.

- A highly detailed explanation of the differences between an Early Onset in Psychosis Team and a Community Mental Health Team. Explanation presented in a clear and understandable way, without the use of acronyms and without prompting.
- A full and detailed explanation of each of the differences between the patient's medical and social circumstances reports without prompt. Candidates did not prejudge and kept an open mind. Disadvantages of remaining detained set out. Information gaps were identified. A focus on the relevant issues.
- A full and detailed explanation of the patient's diagnosis of psychosis. The patient's behaviours explained by autism and mental disorder. Recognition that a diagnosis/firm opinion on which diagnosis was correct could not be made on the written evidence alone.
- A fully detailed explanation of why the proceedings should not continue without a nursing report. Explains that an appropriate member of the nursing team could attend in person. Willing to discuss and accept the advice and opinions of tribunal colleagues. Willing to consult with the patient's legal representative.
- A full and detailed exploration and explanation of the requirement to detain in hospital. Identification and explanation of the history of the patient's behavioural changes.
- Full and detailed responses regarding the assumptions of patient risks, using the statutory criteria. Identifying that Section 17 leave of the Mental Health Act may have been a useful assessment but noted the views of the care co-ordinator.
- A full consideration and various suggestions made as to the arrangements for the patient to have a fair hearing and fully participate in the proceedings, including the candidate's own suggestions.

<u>Strong evidence included:</u>

- Knowledge of the pertinent ICD codes and how they were relevant but failed to discuss prognosis. The use of any acronyms was clarified immediately, without being asked.
- A clear explanation of the differences between an Early Onset in Psychosis Team and a Community Mental Health Team. The use of any acronyms was clarified immediately, without being asked.
- Identification and description of at least eight of the 18 differences between the medical and social circumstances reports.
- Full explanation of the diagnoses. Noting that the patient was detained on Section 2 of the Mental Health Act, so diagnosis was still being assessed.
- Gives reasons why the proceedings should not continue without a nursing report. Suggests a member of the nursing team could attend in person. Willing to discuss and accept the advice and opinions of tribunal colleagues and to consult with the patient's legal representative.
- Exploration and explanation of the requirement to detain the patient in hospital, drawing attention to the history of behaviour change.
- Using the statutory criteria to discuss patient risk but not identifying all of the factors to be taken into consideration. Identifying that Section 17 leave of the Mental Health Act may have been a useful assessment.
- Making some suggestions to enable the patient to fully participate in the proceedings, including those recommended by care co-ordinator.

<u>Sufficient evidence included:</u>

- Asserting that ICD codes were used to classify medical disorders. Awareness of the introduction of ICD11. All information given in a clear understandable way.

- Some of the main differences between the Early Onset Psychosis Team. The Community Team explained. Any use of acronyms was explained when asked.
- Describing at least six of the 18 differences between the medical and social circumstances reports.
- From the patient's reports, the candidate stated that the patient had a psychotic disorder and autism. Noting that the patient was detained on Section 2 of the Mental Health Act, so diagnosis was still being assessed.
- Noting that a nursing report was expected for the hearing. Stated that the decision to proceed would be panel-led. Failed to suggest the attendance of a nurse to provide an update.
- Explaining the requirement to detain the patient in hospital, taking on board the patient's history.
- Discussing in a structured way the patient risk to health, safety and others when prompted. Failing to mention Section 17 leave of the Mental Health Act.
- Suggesting the tribunal panel heard the patient's evidence first and allowed breaks. Alternatively, suggests the tribunal panel should first meet with the patient's representative and care co-ordinator to explore ways to enable the patient's participation in the proceedings.

<u>Insufficient evidence included:</u>

- Inability to explain ICD codes. No knowledge and/ or awareness of ICD11. Responding that the codes were irrelevant or dismissing the request for information about the codes.
- Unawareness of the Early Onset Psychosis Teams. Inability to explain what an Early Onset Psychosis team is. Failing to acknowledge a lack of knowledge. Failing to offer or make efforts to research knowledge.
- Dismissing or failing to notice any differences between the medical and social circumstances reports. Failing to express a preference for the evidence in one of the reports. Making assumptions based on names such as nationality or ethnic groups.
- Diagnosis of mental disorder, without referencing the symptoms.
- Giving a definite opinion on whether the hearing proceeded in the absence of a nursing report and was unwilling to compromise on their decision. Alternatively, states the decision to proceed should be left to tribunal panel colleagues. Making negative statements about the lack of report ("typical", "often happens" or "don't need it anyway").
- Inability to describe the nature of the disorder in a structured way as they appear unaware of the statutory criteria therefore does not explain the requirements to detain the patient.
- Failing to discuss patient risk in a structured way so does not use the categories of risk to health, safety or protection of others. Stating the reports were lacking in this information.
- Offering no suggestions to enable the patient to fully participate in the proceedings.

Competency-based interview

Each candidate had a competency-based interview. Here the panel was seeking further evidence and examples from the candidate of the required competencies and in the context of the role of a Medical Member of the Health, Education and Social Care Chamber (Mental Health).

Working and Communicating with Others

Outstanding evidence included:

- A skilful handling of a sensitive matter accommodating conflicting cultural and religious factors in a challenging situation.
- Innovatively reaching a consensus whilst working collaboratively to achieve a positive outcome.
- Dealing effectively with interpersonal conflicts between junior and senior colleagues.

Strong evidence included:

- Using their own knowledge to address and tackle cultural assumptions; driving new diversity initiatives.
- Collaboratively engaging with colleagues to find new ways of working whilst resources are stretched.
- Calmly and confidently discussed the risks and options available with all colleagues.

Sufficient evidence included:

- Demonstrated an awareness of complex matters, assisting others engagement and understanding of the issues.
- Working across teams to secure a positive outcome.
- Resolving conflicting views on a course of action based solely on resources

Insufficient evidence included:

- Answers were irrelevant or did not address the questions asked.
- Examples which were underdeveloped and were lacking in detail and depth.
- Answers which were unstructured, ineffective, circuitous, and lacked focus despite prompts from the panel.
- Failure to demonstrate an understanding of diversity and/or sensitive needs.
- Demonstrating a lack of clarity when providing answers and relying on the use of medical jargon without explanation.
- Making disparaging and unprofessional comments when explaining attempts to reach a consensus and resolve professional conflict.

Managing Work Efficiently

No candidate demonstrated outstanding evidence for this competency. The difference between an outstanding and strong grade would have been determined by the complexity and relevance of the examples provided, the clarity and structure of the answer and the lack

of prompting or probing carried out by the panel in order to obtain evidence at a level commensurate with the role on offer.

Strong evidence included:

- Deployed effective strategies to manage competing priorities across multiple professional roles, regularly assessing these against available resources. Applied leadership skills to empower others to assist with workload, whilst maintaining a quality of work.

- The ability to reconcile tribunal work with existing professional commitments by rigorous planning and diary reviews, using time-management tools and relying on colleagues to assist with pre-existing commitments.

- Demonstrated resilience during the COVID-19 pandemic, adapting their professional and home life to deal with unforeseen and challenging circumstances, delegating tasks to colleagues where possible.

Sufficient evidence included:

- Balanced competing priorities by delegating tasks to a junior colleague, enabling the candidate to deal with urgent admissions and other urgent work.

- Reconciling tribunal work with existing professional commitments by relying on accrued leave for working out of hours and their allocated annual leave allowance.

- Demonstrated resilience during a period of reduced staffing resources by keeping channels of communication open amongst their team, maximising the use of available resources and leading with a calm approach.

Insufficient evidence included:

- An example of resilience or managing competing priorities that had potential but lacked context and explanation.

- Answers which were irrelevant or did not address the questions asked.

- Answers which were unstructured, ineffective, circuitous, and lacked focus despite prompts from the panel.

Feedback from candidates

After the selection days, candidates were invited to complete an anonymous candidate survey, 38% of candidates (26) responded to the survey. Based on the results of the survey:

The instructions provided beforehand enabled me to prepare for the selection day.
- 85% of candidates either agreed or strongly agreed.
- 4% of candidates disagreed.
- 11% of candidates neither agreed nor disagreed.

I understood what was expected on the selection day.
- 93% of candidates either agreed or strongly agreed.
- 7% of candidates neither agreed nor disagreed.

The situational questions discussed in the situational questioning were realistic and relevant to the role.

- 92% of candidates either agreed or strongly agreed.
- 8% of candidates neither agreed nor disagreed.

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

- 88% of candidates either agreed or strongly agreed.
- 4% of candidates disagreed.
- 8% of candidates neither agreed nor disagreed.

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

- 85% of candidates either agreed or strongly agreed.
- 3% of candidates disagreed.
- 12% of candidates neither agreed nor disagreed.

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

- 73% of candidates either agreed or strongly agreed.
- 8% of candidates disagreed.
- 19% of candidates neither agreed nor disagreed.

The panel behaved professionally and treated me with respect.

- 96% of candidates either agreed or strongly agreed.
- 4% of candidates disagreed.

I am confident in the interview as a JAC selection tool.

- 73% of candidates either agreed or strongly agreed.
- 4% of candidates disagreed.
- 23% of candidates neither agreed nor disagreed.