



Scenario Test Evaluation and Feedback Report

**00287 - Fee-paid Judge of the First-tier Tribunal
January 2026**

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 eight questions in the test.

Judicial Skills and Abilities Framework

The test was designed to assess the following skills and abilities:

- Legal Skills
- Dealing with Information
- Communication Skills
- Personal Qualities
- Effective Working

The Judicial Skills and Abilities Framework highlights the key skills that all judicial office holders or prospective judicial office holders should demonstrate across their application or career. This enables candidates to be assessed in a fair and consistent way.

Development of the test

The test and marking schedules were devised by a District Tribunal Judge, a Regional Tribunal Judge, and Principal Judge from a range of First-tier chambers.

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 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 digital platform and was 60 minutes long, candidates were presented with a scenario and eight questions.

The test involved two appeals brought before the First-tier Tribunal (Asylum Support), based on fictitious characters whose financial asylum support had been withdrawn. Candidates were required to respond, acting as a Fee-paid Judge of First-tier Tribunal (Asylum Support) to make decisions, applying the law and tribunal procedures. They were provided with the necessary extracts of the law and procedures in advance, along with a relevant reference case before the same tribunal. Questions dealt with considering jurisdiction, extensions of time, managing the hearing on the day, evidence admission, language barriers, and making a final decision on both appeals.

Candidates were required to provide narrative responses to each of the eight 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:** 6 marks, maximum 100 words
- Question 2:** 5 marks, maximum 150 words
- Question 3:** 10 marks, maximum 300 words
- Question 4:** 7 marks, maximum 200 words
- Question 5:** 5 marks, maximum 150 words
- Question 6:** 5 marks, maximum 150 words
- Question 7:** 8 marks, maximum 400 words
- Question 8:** 9 marks, maximum 500 words

Marking schedule

A marking schedule was provided to the panels. A maximum of 55 marks were available.

Marking of the test

The candidates' test submissions were anonymised and marked by a panel of judicial members. There were 10 judicial members. JAC staff provided a full briefing to the markers at the outset of marking the test scripts.

A total of 580 candidates sat the test. A 10% sample of the test scripts were selected for moderation in addition to those already discussed at the calibration meetings. Those selected included: scripts identified for moderation 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 the judicial 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 both robust and consistent.

Distribution of scores

596 candidates were invited to take the test.

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

580 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 above,
- 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. The highest scoring 335 candidates from the scenario test were shortlisted through to selection days.

We did not have a pre-determined pass mark for the test. 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 25 marks and above.

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

Distribution of marks	Highest mark	Lowest mark	Average mark
Question 1	5/6 (129 candidates)	0/6 (6 candidates)	3.6 out of 6 marks
Question 2	5/5 (1 candidate)	0/5 (16 candidates)	2.5 out of 5 marks
Question 3	9/10 (9 candidates)	0/10 (8 candidates)	4.8 out of 10 marks
Question 4	7/7 (1 candidate)	0/7 (24 candidates)	3.6 out of 7 marks
Question 5	4/5 (48 candidates)	0/5 (50 candidates)	2.0 out of 5 marks
Question 6	4/5 (54 candidates)	0/5 (27 candidates)	2.5 out of 5 marks
Question 7	8/8 (1 candidate)	0/8 (35 candidates)	3.0 out of 8 marks
Question 8	8/9 (72 candidates)	0/9 (123 candidates)	3.7 out of 9 marks
Total (all questions)	46/55 (1 candidate)	6/55 (1 candidate)	25.8 out of 55 marks

Approach to shortlisting

When the JAC receives notification from HM Courts and Tribunals Service confirming the 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 a vacancy request to fill 150 posts. We therefore planned the selection exercise based on inviting around 318 candidates to selection day. To prevent a significant drop from the substantial number of candidates who applied to fill the much smaller number of selection day slots, we planned to have multiple shortlisting stages as part of the selection process.

All candidates who applied for the exercise were invited to sit the initial online qualifying test, which involved a situational judgement and critical analysis test. 596 candidates were invited to take the online scenario test. 580 candidates completed the test.

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

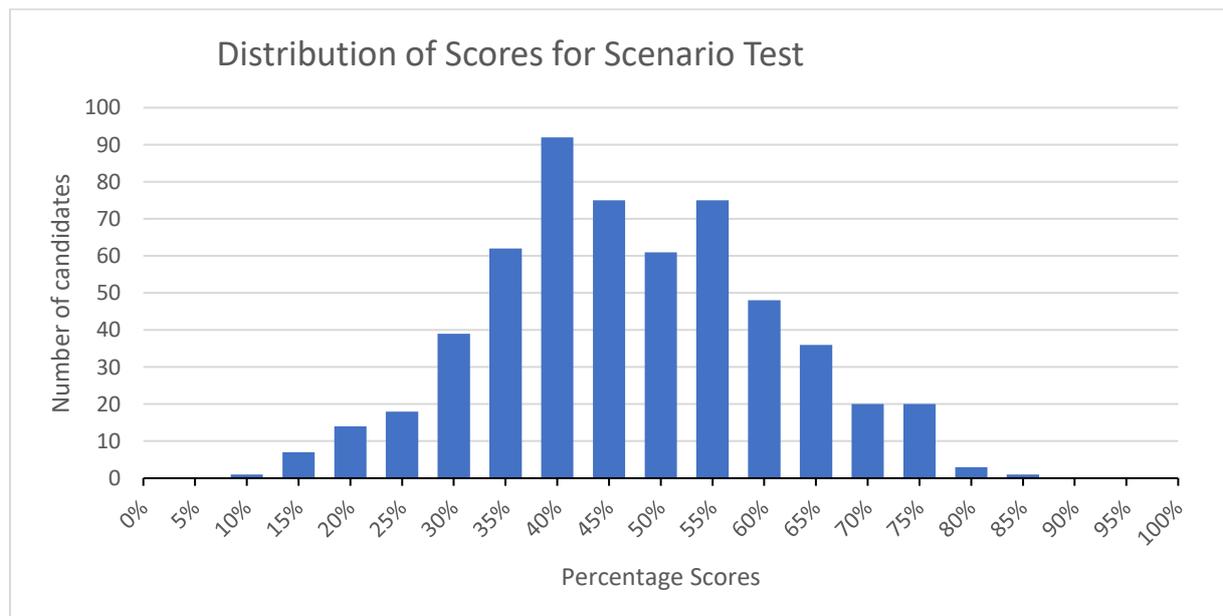
Where there are candidates with the same score at the cut-off line, the Equal Merit Provision (EMP) may be applied in line with the [JAC's published policy](#). If the equal merit approach is applied, this will be after the consideration of a sub-committee of Commissioners; consisting of a legal Commissioner, 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 and
- reliance on EMP in the shortlisting process being conducted is a proportionate means of achieving the aim of increasing judicial diversity

The EMP was applied at this stage of the selection process and 335 candidates were invited to progress to the next stage of the selection exercise.

Distribution of scores

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



The lowest score was 11%, the highest score was 84%, and the average score was 47%.

Feedback from the marking panels

To ensure comprehensive feedback, panels were briefed to record recurring trends and common themes throughout the marking process. These observations were then synthesised into the report below.

Question one was designed to test the candidate's understanding of case management and time limits.

Candidates who scored well:

- identified and analysed the factual issues and applied the rules appropriately
- noted the time limit for appealing out of time under rule 22(2)(a)
- focused solely on the lateness of the appeal without being drawn into unrelated issues

Candidates who performed less effectively:

- did not specifically reference the relevant rules
- missed the time limit for appealing out of time under rule 22(2)(a)
- failed to focus on the lateness of the appeal or did not analyse the factual issues

Question two was designed to test the candidate's understanding of the effective use of judicial time and case management on a hearing day.

Candidates who scored well:

- identified the relevant rules, both specific and general
- focused on the change in listing arrangements and its impact on all participants
- considered carefully the rules and the practicalities of an adjournment
- recognised that there was time to hear the case because the afternoon matter had been withdrawn

Candidates who performed less effectively:

- did not reference the rules or relied on irrelevant considerations
- failed to notice that the withdrawn afternoon case meant there was time for the hearing to still proceed
- did not consider the practical impact of an adjournment on the parties or the tribunal

Question three was designed to test the candidate's understanding of the admission of evidence on the day.

Candidates who scored well:

- identified the relevant rules in their response and referenced them when assessing admissibility
- considered the relevance of each report, assessing the evidence on its merits

- took into account the reasons for the breach and the impact of waiving compliance under rule 7(2)(a)
- recognised that one report was only five pages and could be read within the time available
- noted that the second report was not relevant because it related to the asylum claim rather than the asylum support appeal

Candidates who performed less effectively:

- failed to consider what the reports actually related to and admitted or refused them without reference to the rules
- missed that they had discretion to waive any breach under rule 7(2)(a)
- did not appreciate the practical impact, including considering the short length of the relevant report
- treated the second report as relevant when it related to a different claim

Question four was designed to test the candidate's understanding of the effective management of hearings in terms of attendance, including hybrid and remote approaches.

Candidates who scored well:

- identified the relevant rules, both specific and general, for the question
- considered the two linked but subtly different issues separately
- addressed the arguments raised by each party
- considered the practical impact of the applications on the hearing and the case overall
- took into account the implications for the parties, including the effect of remote attendance and the adjournment application

Candidates who performed less effectively:

- did not balance the impact of delay against the value of the solicitor attending in person, particularly where a vulnerable individual was involved
- treated the objection to attending at short notice as sufficient grounds for adjournment
- failed to consider the substantive application and instead made decisions based on irrelevant matters
- did not address the implications of the remote attendance and adjournment requests

Question five was designed to test the candidate's understanding of the appropriate use of interpreters to enable a party's full participation in the hearing.

Candidates who scored well:

- identified the relevant rules, both specific and general
- analysed the facts to reach a reasoned and supported conclusion
- considered the information in the prereading material with appropriate caution
- made clear determinations demonstrating awareness of the appellant's background, including their education and time in the UK

- recognised the limits of using a brief conversation to assess English language understanding

Candidates who performed less effectively:

- did not recognise or utilise information contained in the prereading material
- failed to make a determination or provided an incomplete one
- missed that the appellant was university educated in English and had lived in the UK for two years
- relied on a conversation to assess the appellant's English ability but did not appreciate the limits of this approach

Question six was designed to test the candidate's understanding of how to handle a party's need to breastfeed her child during the hearing.

Candidates who scored well:

- engaged with the appellant to seek her views, including what she wished to do regarding breastfeeding
- identified the relevant rules, and made determinations that supported the appellant based on her expressed views
- made it clear the representative's comments were unacceptable and inappropriate

Candidates who performed less effectively:

- did not ask the appellant what she would like to do in terms of breastfeeding
- failed to identify or apply the relevant rules when making determinations
- did not challenge inappropriate comments

Question seven was designed to test the candidate's understanding of their jurisdiction to hear the appeals presented.

Candidates who scored well:

- made detailed reference to the relevant legislation and case law, demonstrating extended consideration of the implications
- engaged meaningfully with the pre-reading, beyond simply citing it
- addressed the arguments raised by both representatives, including the impact on vulnerable appellants
- focused their reasoning on the jurisdictional question and structured their analysis clearly
- recognised the significance of the withdrawal decision not being a determination on the merits of the asylum claim

Candidates who performed less effectively:

- referred only briefly to legislation or case law and did not develop their reasoning
- failed to recognise that vulnerable appellants had no accessible means of challenging the withdrawal decision
- did not address the representative's argument regarding Parliament's intention in section 103 and the implications for asylum seeker status
- did not note that an implicit withdrawal was not a definitive merits decision and that asylum seeker status may continue for section 95 purposes while reconsideration was pending

- gave unstructured responses that did not fully engage with the jurisdictional issues

Question eight was designed to test the candidate's decision-making and judgment regarding the two appeals presented.

Candidates who scored well:

- made clear findings of fact and identified factual concessions
- applied the pre-reading effectively to the facts, noting the Secretary of State for the Home Department's (SSHD) failure to follow the withdrawal policy
- referred to *MAH*, the case provided with the pre-reading, recognised Tribunal jurisdiction, and produced a structured, reasoned decision

Candidates who performed less effectively:

- failed to identify or apply key findings of fact, including the SSHD's departure from policy
- referred to *MAH* or jurisdiction without integrating these into their reasoning
- reached determinations that were unstructured, insufficiently reasoned, or unsupported by factual findings

Overall, across the scenario test as a whole:

Candidates who scored well:

- identified and cited the relevant statutory provisions and rules, explaining why they were applicable and/or their implications and the impact on both the parties and the hearing
- considered and referenced the pre-reading material appropriately
- applied the law to the facts, addressed the parties' arguments, and reached clear, decisive conclusions, including whether arguments were accepted or dismissed
- answered fully the specific question asked, dealing with issues as they arose and leaving other matters to later questions
- provided responses that were concise, well-structured, and followed the order of the question, using bullet points effectively
- managed time well and produced answers proportionate to the word count and marks available
- wrote clearly and accurately, with spelling and grammar that ensured the reasoning was easy to follow

Candidates who performed less effectively:

- did not answer the specific question asked, addressed irrelevant matters or issues from other questions, and sometimes failed to identify the relevant rules or legal provisions
- were indecisive: issuing directions instead of making decisions, reciting law or listing possibilities without applying the facts, asking for unnecessary further information, or using ambiguous phrases that did not make clear what decision had been reached
- responses lacked sufficient depth, clarity, and explanation, with some using jargon or shorthand that made answers difficult to understand
- misapplied the sources provided or referred to sources not provided or not relevant to the Tribunal's jurisdiction, including incorrect references to section 55 of the Borders,

Citizenship and Immigration Act (BCIA) 2009, not appreciating that it imposed a duty on the Secretary of State rather than the Tribunal

- referred to what the “court” should do, not recognising that the scenario was set in a Tribunal with different procedures
- poor time management was common, particularly not checking the mark allocation and failing to plan time proportionately, with many answering well up to question 5 or 6 and then providing nothing further

Feedback from candidates

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

222 candidates responded to the survey. Note that in some places percentages will not add to exactly 100% due to rounding. Based on the results of the survey:

Asked whether they were provided with sufficient preparatory material to answer the scenario test:

- 79.7% of candidates agreed or strongly agreed
- 7.7% of candidates neither agreed nor disagreed
- 12.6% of candidates disagreed or strongly disagreed

Asked if the scenario test gave them the opportunity to show how they would deal with the type of situations that could arise with the role:

- 57.2% of candidates agreed or strongly agreed
- 11.3% of candidates neither agreed nor disagreed
- 31.1% of candidates disagreed or strongly disagreed
- 0.5% of candidates marked the question as not applicable

Asked whether the scenario test was accessible in terms of format, language used, and topics covered:

- 78.0% of candidates agreed or strongly agreed
- 10.8% of candidates neither agreed nor disagreed
- 11.3% of candidates disagreed or strongly disagreed

Asked if they are confident in the scenario test as a JAC selection tool:

- 38.3% of candidates agreed or strongly agreed
- 26.1% of candidates neither agreed nor disagreed
- 35.6% of candidates disagreed or strongly disagree

Asked whether the scenario test was easy to complete:

- 10.0% of candidates agreed or strongly agreed
- 11.7% of candidates neither agreed nor disagreed
- 78.4% of candidates disagreed or strongly disagreed