Online Scenario Test Evaluation and Feedback Report

00289 Fee-paid Judge of the First-tier Tribunal, Immigration and Asylum Chamber

December 2025

Purpose

The purpose of this report is to provide an evaluation of the Fee-paid Judge of the First-tier Tribunal, Immigration and Asylum Chamber 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
- 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, Immigration and Asylum Chamber is expected to have. This enabled us to assess candidates in a fair and consistent way.

Development of the test

The test and marking schedule were drawn from a bank of scenario tests that the JAC may utilise. They were originally drafted by a range of tribunal judges from across the chambers, and were reviewed by the lead judge and two judges from the Immigration and Asylum Chamber to ensure relevance and that it was fit for purpose

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 material was 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. The test was 80 minutes long. Candidates were presented with a scenario and three questions.

The test involved addressing an appeal arising from disciplinary action taken within a private membership organisation following concerns about a member's online conduct and its impact on others and on the reputation of the organisation. Candidates were required to make reasoned procedural and substantive decisions based solely on the materials provided, without reliance on external legal sources. Throughout, they needed to identify and apply the relevant rules, procedural requirements, and factual matters, and to provide clear, well-reasoned answers, demonstrating fair process and principled decision-making.

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: 15 marks, a maximum of 250 words
Question 2: 24 marks, a maximum of 500 words
Question 3: 36 marks, a maximum of 700 words

Marking schedule

A marking schedule was provided to the panels. A maximum of 75 marks were available.

Marking of the test

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

A total of **295** candidates sat the test. A 15% sample of the test scripts were selected for moderation. 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 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

300 candidates were invited to take the test
5 candidates withdrew from the process or did not take the test
295 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

This provided a merit list determining how many candidates would be invited to the next stage of the exercise. The highest **154** scoring 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 **55.3%** 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	13/15 (3 candidates)	23/24 (1 candidate)	32/36 (2 candidates)	62/75 (1 candidate)
Lowest score	0/15 (1candidate)	3/24 (1 candidate)	0/36 (2 candidates)	18/75 (1 candidate)
Average score	7.5/15	13.5/24	20/66	41/75

Approach to shortlisting

When the JAC receives notification from His Majesty's Courts and Tribunals Service (HMCTS) 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 70 posts. We therefore planned the selection exercise based on inviting around 158 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 shortlisting stages as part of the selection process.

All candidates who applied for the exercise were invited to sit the online qualifying test, which involved a situational judgement and critical analysis test. 298 candidates were then invited to take the online scenario test. 295 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 EMP 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 equal merit provision was applied at this stage of the selection process.

After applying the above process, one candidate was invited to progress to the next stage of the selection exercise.

The distribution of scores is shown in the graph below, with scores grouped by rounding to the nearest 5%.
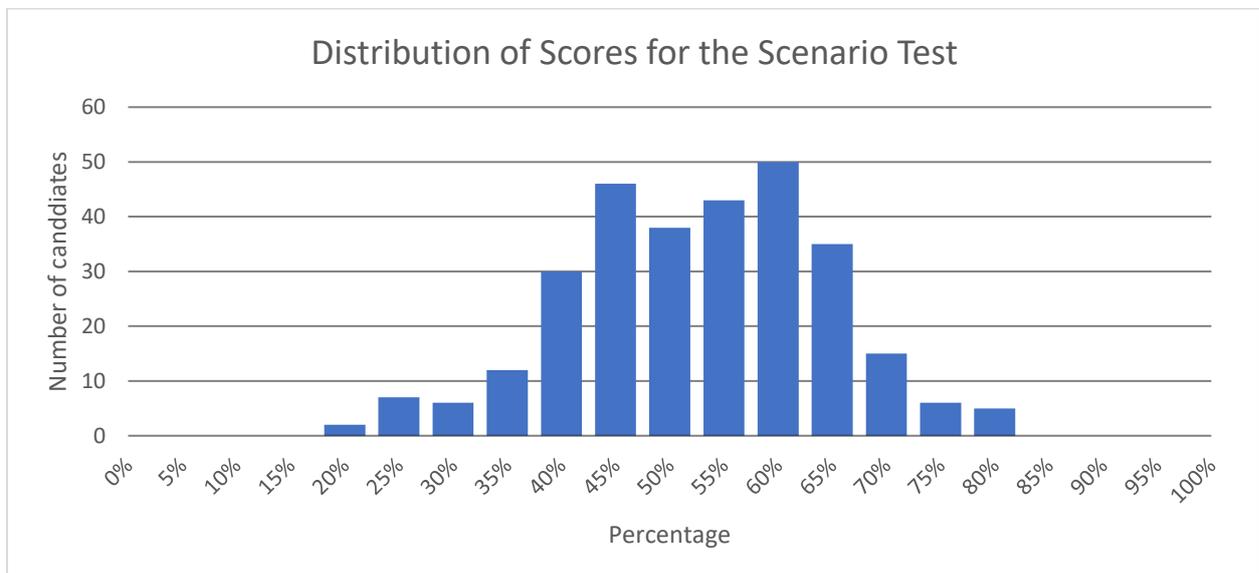
The average candidate scores for this test were as follows: lowest average candidate score was **24**%, highest average candidate score was **82.7**%. The average candidate score was **54.6**%.

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 1 was designed to test the candidate's understanding of:

- applying procedural fairness and access to justice principles, including ensuring that all participants can engage effectively with the hearing
- demonstrating an understanding of open justice and media access, and the ability to balance transparency with the proper administration of justice
- identifying and applying the correct procedural rules and using those rules to reach a reasoned decision

Candidates who scored well, included most or all the following in their answers:

- identified the key procedural issues in the scenario
- applied the rules logically to the facts, showing a clear line of reasoning leading to a justified decision
- presented their answer in a clear, structured, and easy to follow format

Candidates who performed less effectively:

- focused too heavily on one aspect of the scenario and overlooked other important elements, which led to an unbalanced or incomplete answer
- relied on general statements or assumptions about fairness, public interest, or procedure without linking them to the specific facts of the scenario or to any relevant rules
- presented conclusions without showing how they were reached, leaving the panel unable to understand the reasoning or the process used to get there

Question 2 was designed to test the candidate's understanding of:

- evidential admissibility in tribunals, including when and how late or new evidence may properly be considered
- the ability to identify and apply the correct procedural rules, and to weigh all relevant factors before reaching a conclusion
- the ability to reach a clear, single, and justified decision, showing sound reasoning rather than sitting on the fence
- the principles of procedural fairness, proportionality, and efficiency, ensuring that both parties are treated fairly while the case is managed in a just and timely way

Candidates who scored well, included most or all the following in their answers:

- showed a clear understanding of how late evidence should be approached, recognising the need to balance relevance, fairness, and practicality rather than relying only on the timing rule
- weighed the competing factors on both sides in a structured and proportionate way, demonstrating why the new material should or should not be admitted in light of its usefulness and the potential prejudice caused.
- linked their decision on admissibility to the adjournment issue logically, dealing only with the correct application and explaining the reasoning behind whether an adjournment was appropriate

Candidates who performed less effectively:

- treated the new evidence as automatically admissible or automatically inadmissible, rather than weighing its actual relevance against the potential prejudice or delay it might cause
- did not deal with the adjournment in a way that reflected their earlier reasoning, sometimes mentioning both applications or ignoring the point altogether, rather than addressing the single correct application arising from their admissibility decision

Question 3 was designed to test the candidate's understanding of:

- writing a judicial quality judgment within a strict word limit while maintaining clarity, ensuring that reasoning is concise, well structured, and proportionate to the issues raised
- demonstrating structured, balanced, and impartial reasoning, showing an ability to analyse the relevant rules, apply them to the facts, and reach a fair and legally justified outcome

Candidates who scored well, included most or all the following in their answers:

- showed a strong grasp of how the rules fit together, clearly identifying the key conduct rules at the centre of the appeal and explaining how they distinguished misconduct, serious misconduct, and matters relevant only to general policy principles
- used the rules purposefully in their analysis, demonstrating how each rule applied to the content of the tweet, the "about a member" requirement, the disrepute threshold, and the expectations around online behaviour
- presented a clear, reasoned conclusion on the appeal, explaining why the original decision was or was not "manifestly unjust" and linking their final decision to the rules

Candidates who performed less effectively:

- referred to rules without integrating them into their reasoning, listing multiple provisions but not demonstrating how they affected the classification of the conduct or the fairness of the original decision
- focused narrowly on single features of the scenario without engaging with essential distinctions like offence about a member, the seriousness thresholds, or the timing of the newspaper report
- made a decision but didn't apply the proper appeal steps, missing the "manifestly unjust" test and not explaining why their sanction choice made sense under the rules

Feedback from candidates

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

61 candidates responded to the survey.

Asked whether sufficient preparatory material had been provided to answer the scenario test:

- 83.7% agreed or strongly agreed
- 4.9% neither agreed nor disagreed
- 9.8% disagreed or strongly disagreed

- 1.6% not applicable

Asked whether the scenario test gave candidates the opportunity to show how they would deal with the type of situation that could arise in the role:

- 86.9% agreed or strongly agreed
- 3.3% neither agreed nor disagreed
- 9.8% disagreed or strongly disagreed

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

- 88.5% agreed or strongly agreed
- 8.2% neither agreed nor disagreed
- 3.3% disagreed or strongly disagreed

Asked whether candidates were confident in the scenario test as a JAC selection tool:

- 72.1% agreed or strongly agreed
- 21.3% neither agreed nor disagreed
- 6.6% disagreed or strongly disagreed

Asked whether the scenario test questions were easy to complete (in terms of content difficulty):

- 36.1% agreed or strongly agreed
- 23.0% neither agreed nor disagreed
- 40.9% disagreed or strongly disagreed