



Post Selection Day Evaluation and Feedback Report

00264: Fee-Paid Member of the First-tier Tribunal, General Regulatory Chamber, (Information Right Jurisdiction)

October 2025

Purpose

The purpose of this report is to provide an evaluation of the selection days for Fee-paid Member of the First-tier Tribunal, General Regulatory Chamber (Information Right Jurisdiction), 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

At selection day, the situational questions were designed to assess the following competencies:

- Exercising Judgement
- Possessing and Building Knowledge
- Assimilating and Clarifying Information

The competency-based interview questions were 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 Fee-paid member of the First-tier Tribunal, General Regulatory Chamber (Information Rights Jurisdiction) is expected to have. This enabled us to assess candidates in a fair and consistent way.

Additional selection criteria

Candidates were expected to have substantial experience of data protection or of freedom of information (including environmental rights) – specifically knowledge and substantial experience of the Data Protection Act 2018 (DPA), and/or the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). The experience must have been demonstrated in the past five years.

Experience of freedom of information and environmental rights may, for example, have been obtained working for a public authority identified in Schedule 1 to the FOIA as an information policy officer or manager, transparency officer/manager or equivalent role and experience of data protection may, for example, have been obtained working in the public or private sector as an information security officer or manager, data protection officer or manager or an equivalent role.

Performance of candidates

83 candidates applied for this exercise. Following the eligibility sift, 26 candidates were invited to selection day. 11 candidates were recommended by the Judicial Appointments Commission (JAC) to the Senior President of Tribunals for appointment, as the original vacancy request was increased from 10 to 11 by His Majesty's Courts and Tribunals Service (HMCTS) due to business need. 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 20 to 24 October 2025. Candidates were provided with technical support to [get ready for their remote selection day](#) as detailed on our website.

Situational questions

Development

The situational questions were drafted by a Tribunal Judge from the General Regulatory 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.

Structure of the situational questions

The situational questions comprised of two scenarios with three questions for candidates per scenario. Candidates were asked to consider scenarios that are likely to arise in the post of a Fee-paid member of the First-tier Tribunal, General Regulatory Chamber (Information Rights Jurisdiction). The candidates were asked to assume they were newly appointed to this role.

In scenario one, an appellant challenged an NHS Trust's refusal to disclose internal 'lessons learned' reports sought under a Freedom of Information request—reports the Trust withheld on the basis of legal professional privilege, a decision upheld by the Information Commissioner. The candidate is to determine the issue before the Tribunal on appeal, the steps the Tribunal should take to assess whether the reports attract legal professional privilege, and, if they do, what further steps are required before deciding whether the Commissioner was correct to withhold the information.

In scenario two, the appellant requested information from a local council about a rejected planning application, but the council issued a late refusal relying on FOIA exemptions for

third-party personal data, a position upheld on internal review. Although the Information Commissioner found a procedural breach due to the late and incomplete refusal notice, they took no further action and concluded that the information contained identifiable personal data, correctly withheld under the relevant exemptions, prompting the appellant to appeal to the Tribunal. The candidate is to explain, with reference to section 40(3A), how disclosure would meet the first condition in section 40(2)(b), identify the legitimate interest the appellant (Mr Swain) might be pursuing in seeking this information, and determine whether he is entitled to information relating to his own planning application under section 40 FOIA and/or the DPA.

Advance preparation

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

- Parts 1, 2 and 3 of the Data Protection Act 2018 (DPA 2018)
- Parts 1, 2 and 5 of the Freedom of Information Act 2000 (FOIA)
- UK GDPR, Chapters 1, 2 and 3

At selection day, candidates were allocated 45 minutes preparation time to read the additional materials below and to prepare their answers to the situational questions:

- The scenarios
- The situational questions for each scenario
- A lessons learnt report, relating to the first scenario

Assessment of candidates' responses to the situational questions

The evidence for each competency was assessed as either outstanding, strong, sufficient or insufficient.

Outstanding evidence included:

- demonstrating accurate knowledge of FOIA, UK GDPR and DPA 2018, correctly citing and applying section 58, 42, 40(2), 40(3A), Article 5(1)(a) and Article 6(1) (Scenario 1 and Scenario 2)
- identifying all legal issues: Legal Professional Privilege (LPP) tests, two limbs of privilege, public-interest test, legitimate-interest test, and personal vs third-party data (Scenario 1 and Scenario 2)
- explaining the Tribunal's steps, including individually analysing each Lessons Learned Report and applying the correct LPP tests (Scenario 1)
- showing a sophisticated understanding of the public interest balancing exercise, especially weight given to lawyer–client confidentiality (Scenario 1)
- providing a full analysis of section 40(3A), including fairness, lawfulness, transparency and limits on Article 6(1)(f) (Scenario 2)
- identifying legitimate interests and applying all three stages clearly (Scenario 2)
- correctly concluding Mr Swain must use Article 15(1) UK GDPR because section 40(1) FOIA is absolute (Scenario 2)

Strong evidence included:

- covering most FOIA, GDPR and jurisdiction points with minor omissions (Scenario 1 and Scenario 2)
- applying both limbs of LPP with less detail or minor gaps (Scenario 1)
- recognising the need for individual assessment of each report and giving a reasoned LPP decision (Scenario 1)
- identifying public-interest factors but without stressing the significant weight of legal confidentiality (Scenario 1)
- outlining section 40(3A) and Article 5(1)(a) with limited analysis of fairness/lawfulness (Scenario 2)
- identifying a legitimate interest but giving partial reasoning (Scenario 2)
- applying section 40(1) FOIA and Article 15 UK GDPR with limited explanation (Scenario 2)

Sufficient evidence included:

- showing basic awareness of section 42 and Tribunal jurisdiction but missing key LPP or public-interest points (Scenario 1)
- recognising reports need individual assessment but offering minimal reasoning (Scenario 1)
- identifying some, but not all, public-interest arguments (Scenario 1)
- stating the section 40(3A) “first condition” and Article 5 relevance but not analysing fairness/lawfulness (Scenario 2)
- identifying a legitimate interest but giving unclear or incomplete reasoning (Scenario 2)
- recognising section 40(1) applies to Mr Swain’s data but missing the absolute nature or SAR route (Scenario 2)

Insufficient evidence included:

- failing to identify Tribunal jurisdiction or major legal issues (Scenario 1 and Scenario 2)
- treating all Lessons Learned Reports collectively or repeating statutory wording without analysis (Scenario 1)
- missing or misunderstanding the section 42 public-interest test (Scenario 1)
- repeating section 40(3A) without analysing fairness, transparency, or lawful basis, or relying on DPA instead of UK GDPR (Scenario 2)
- failing to identify any legitimate interest or reaching a conclusion without reasoning (Scenario 2)
- not recognising section 40(1) as the correct exemption or omitting Article 15 (Scenario 2)

Competency-based interview

Each candidate then 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 Fee-paid Member of the First-tier Tribunal, General Regulatory Chamber (Information Right Jurisdiction).

Working and Communicating with Others

Outstanding evidence included:

- demonstrating the ability to adapt communication methods to suit the needs, expectations and levels of understanding of different stakeholders, selecting the most appropriate approaches to ensure clarity, engagement and mutual understanding
- communicating in a calm, logical and well-organised manner while actively listening, acknowledging others' viewpoints, and responding in a way that reflects careful attention to what has been said
- providing clearly illustrated, compelling and authentic evidence of the candidate's sensitivity to the needs of others and their ability to take an anti-discriminatory approach

Strong evidence included:

- demonstrating skills of persuasion, receptiveness to other's perspectives and the ability to apply nuanced communication skills
- showing an appreciation of the value of diversity and inclusion by recognising and respecting different cultural backgrounds, perspectives, and experiences, and adapting behaviour or communication appropriately to ensure fairness, understanding and inclusivity in all interactions
- evidencing developed listening and teamworking skills by taking a sensitive and thoughtful approach in adapting and delivering one-to-one communication
- providing convincing evidence of expert team working, active listening, and communication skills that adaptable to suit audiences at all levels

Sufficient evidence included:

- showing an ability to break down complex or technical information into accessible, easy-to-understand terms, supported by relevant examples that illustrate key points and enhance the audience's understanding
- providing explanations of communication approaches that remain too general or limited, without sufficient detail, structure, or examples to show how those strategies are applied in practice or why they are effective
- demonstrating skills of persuasion, teamwork and listening skills, although the examples could have been more complex and better developed
- showing understanding and sensitivity in communication in their examples but failing to explore the issue in more detail

Insufficient evidence included:

- showing uncertainty or imprecision when offering examples, resulting in explanations that are difficult to follow or that do not clearly illustrate the point being made
- providing responses that remain surface-level, unorganised or lacking essential detail, and not progressing toward a clear, practical or well-reasoned resolution of the issue
- failure to refer to, or explain in detail, the examples evidencing their communication skills

- offering broad or unfocused responses that do not engage with the question's core requirements, leading to answers that overlook key issues and do not fully respond to what was asked

Managing Work Efficiently

Outstanding evidence included:

- providing evidence of prioritising urgent matters, responding flexibly to changing circumstances and delegating effectively
- demonstrating an exemplary use of IT and other resources and remarkable digital working skills
- showing effective resource management and resilience. Evidencing resounding use of technology in dealing with a substantial volume of materials and growing expertise

Strong evidence included:

- showing evidence of the ability to respond calmly and resiliently and the ability to manage conflicting priorities under pressure
- demonstrating strong problem-solving skills, sound resource allocation and effective resource management and a highly effective use of technology

Sufficient evidence included:

- evidencing planning and organisational skills and use of technology
- showing lower level of examples of planning work, prioritising on the basis of urgent and important matters and allocating appropriate resources for tasks

Insufficient evidence included:

- failing to provide a specific example of managing conflicting priorities and the use of their digital working skills, and failing to provide relevant, clear examples in response to the questions
- demonstrating poor time management throughout the selection day, ignoring prompts on time constraints and requests to focus and be concise

Feedback from Candidates

After the selection days, candidates were invited to complete an anonymous candidate survey. Five candidates responded to the survey. Given the small number of responses, results are presented below as raw numbers rather than calculating percentages.

How would you rate the quality of customer service you received from JAC staff on selection day?

- 4 candidates selected either "Excellent" or "Good"
- 1 candidate selected "Poor"

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

- 3 candidates either agreed or strongly agreed
- 2 candidates disagreed or strongly disagreed

I was confident I knew how to use Microsoft Teams before selection day

- 4 candidates either agreed or strongly agreed
- 1 candidate disagreed

I understood what was expected on the selection day

- 2 candidates strongly agreed
- 2 candidates disagreed or strongly disagreed
- 1 candidate neither agreed nor disagreed

The situational questions were realistic and relevant to the role

- 2 candidates strongly agreed
- 2 candidates disagreed
- 1 candidate neither agreed nor disagreed

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

- 2 candidates either agreed or strongly agreed
- 1 candidate neither agreed nor disagreed
- 2 candidates strongly disagreed

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

- 2 candidates strongly agreed
- 2 candidates disagreed
- 1 candidate neither agreed nor disagreed

The panel behaved professionally and treated me with respect

- 4 candidates strongly agreed
- 1 candidate strongly disagreed

I am confident in the interview as a JAC selection tool

- 3 candidates either agreed or strongly agreed
- 2 candidates either disagreed or strongly disagreed