



Online Scenario Test Feedback Report

104 Deputy District Judge (Magistrates' Court)

21 November 2018

Purpose

The purpose of this report is to provide general feedback on candidate performance in the 104 Deputy District Judge (Magistrates' Court) online scenario test. The report describes how the Judicial Appointments Commission (JAC) developed the test and marking schedule, and how the test was structured.

Additionally, it provides information on the overall performance of candidates in the test, identifying areas where they performed well and where they performed poorly and gives more detailed comments in relation to each of the 4 questions in the test.

Competency Framework

The test was set to assess:

- **Exercising Judgement**
- **Possessing and Building Knowledge**
- **Assimilating and Clarifying Information**
- **Working and Communicating with Others**
- **Managing Work Efficiently**

Development of the test

The test and marking schedule were devised by a team of District Judges (Magistrates' Court) led by the Deputy Chief Magistrate.

The JAC Advisory Group, which is composed of members of the judiciary and representatives of the legal profession, offered advice and guidance during its development.

In common with all qualifying tests used by the JAC, both the test and marking schedule were subject to an extensive quality – and equality – assurance process. The effectiveness of the test was assessed by means of a dry run with a range of volunteer lawyers and judges.

Structure of the test

The test was 50 minutes long. Candidates were presented with a scenario and 4 questions. Questions 1 to 3 were based on this scenario. Question 4 introduced a second scenario. Both scenarios were set in a Not Guilty Anticipated Plea (NGAP) court.

The first scenario was based on a single case with a list of multiple charges of theft, assault, driving offences, and criminal damage. The list contained multi-faceted problems, which replicates a real-life scenario with developing charges. A successful candidate could face a case like this on their first day sitting as a DDJ (MC). The scenario contained both procedural elements and the powers of the court. The scenario was devised so that it would not be so procedural that it advantaged legal advisors at the expense of candidates from other professional backgrounds, and not

too theoretical that it advantaged legal academics at the expense of working lawyers. The scenario included recent developments in the law, and was fairly referenced in the pre-reading material which was sent to candidates 1 week in advance of the test.

The second scenario, presented within question 4, concerned a situation where the defence insisted on a prosecution witness coming to court but the court decides it is not in the interests of justice for them to have to do so.

Candidates were required to provide narrative responses to each of the 4 questions. Each question had a word limit and a maximum amount of marks available. The word limit and marks for each question were as follows:

- Question 1: 28 marks, a maximum of 350 words
- Question 2: 16 marks, a maximum of 200 words
- Question 3: 6 marks, a maximum of 150 words
- Question 4: 11 marks, a maximum of 350 words

Marking of the test

The candidate's test submissions were anonymised and marked by a 2-person panel comprising a JAC panel chair and a District Judge (Magistrates' Court). There were 5 marking panels.

JAC staff provided a full briefing to the markers at the outset of marking the papers.

Marking schedule

A marking schedule was provided to the panels. It allowed for all answers that demonstrated the required competencies to be rewarded. A maximum of 61 marks were available for responses against the marking schedule.

Moderation

542 candidates sat the test. A 20% sample of the test scripts were selected for moderation. Those selected included the scripts identified as candidates for moderation by markers; samples of the high-, low- and mid-scoring test papers; all test papers 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.

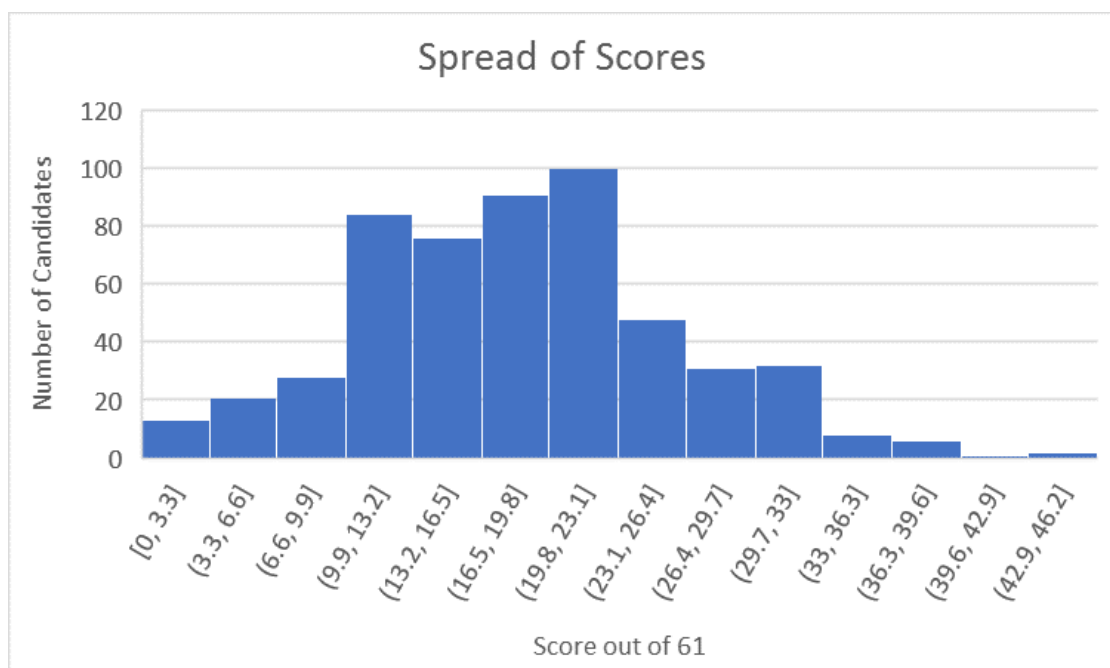
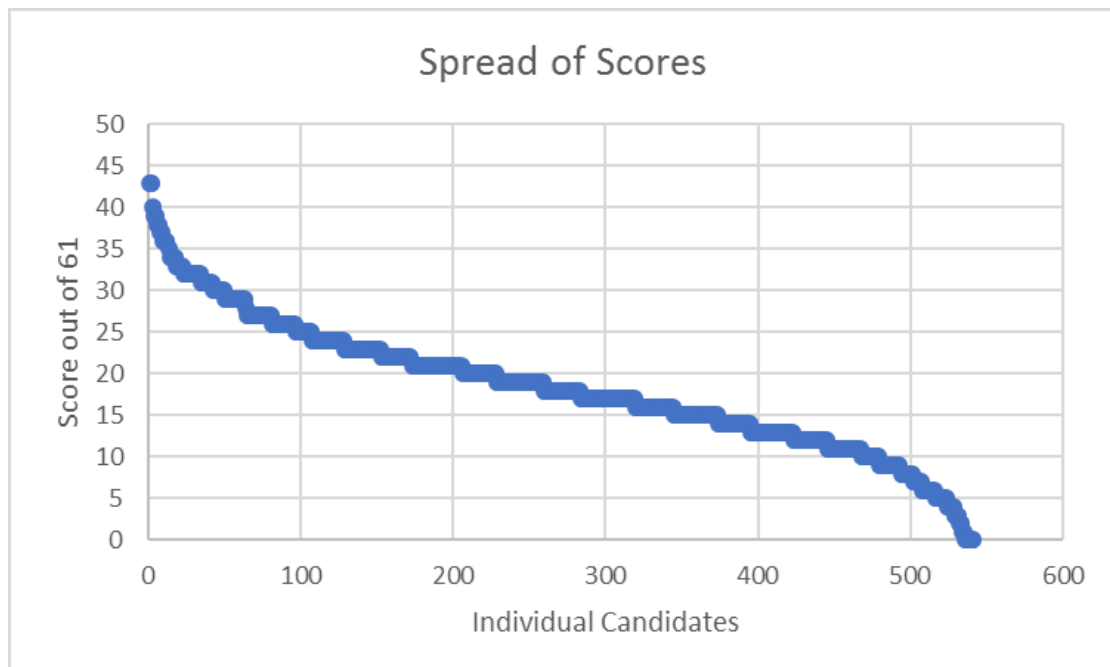
It is JAC policy for a Senior Selection Exercise Manager and the JAC Commissioner assigned to the selection exercise to undertake separate quality assurance checks. Their independent conclusion was that marking had been robust and consistent.

Distribution of marks

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

	Question 1	Question 2	Question 3	Question 4	Total
Highest score	26/28 (1 candidate)	13/16 (1 candidate)	6/6 (8 candidates)	11/11 (10 candidates)	43/61 (2 candidates)
Lowest score	0/28 (12 candidates)	0/16 (105 candidates)	0/6 (275 candidate)	0/11 (71 candidates)	0/61 (6 candidates)

The charts below show the spread of total scores



Approach to shortlisting

When the JAC receives a vacancy request from HMCTS confirming how many vacancies there are for a post, we calculate how many candidates we need to take 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 30 posts. We therefore planned the selection exercise based on inviting around 85 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 2 shortlisting stages as part of the selection process.

All candidates who applied for the exercise were invited to sit the first stage of shortlisting, the online qualifying test. 545 candidates were successful following the qualifying test and were invited to sit the online scenario test.

541 candidates proceeded to sit the online scenario test, which was marked as outlined above. The scores of the candidates were ranked into a merit list order. Based on the distribution of candidate scores, the highest 80 scoring candidates from the scenario test were considered for shortlisting through to selection days.

We do however have a lower line below which candidates are automatically sifted out of the competition, this is usually 30% or less on any part of the test.

In the interest of fairness to all candidates however, if 2 or more candidates have the same score on the merit list at the line of shortlisting, we will take all those with the same score through to the next stage. When candidates have the same score on a merit list, we call this bunching. Once any bunching is taken into account, the final line of shortlisting is determined.

After applying the above process, 80 candidates were invited to attend selection day.

We therefore do not have a pre-determined 'pass mark' for the test; the line of shortlisting on the merit list 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 shortlisting. For this exercise, the score at which the line of shortlisting fell was 27 out of 61 (44%). The 81st candidate's score was 26 out of 61.

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:

- Dealing with different categories of offences and the procedural requirements for these. The assault offence in this case is an 'either way' matter: it can be dealt with in the magistrates' court or the Crown Court. The Court must first decide whether the case can remain in the Magistrates' Court or should be allocated to be dealt with at the Crown Court.

If the court decides that the case can remain in the Magistrates' Court, then the defendant has the right to elect trial in the Crown Court.

The shoplifting offence is a matter that can only be dealt with in the Crown Court if the defendant asks to have his or her trial there.

The driving offences ordinarily can only be dealt with in the Magistrates' Court, but different considerations arise as they are linked to offences which may be dealt with at the Crown Court. In addition, there are time limits for prosecuting certain types of offences and candidates are expected to know these from the briefing material and apply them where appropriate. Candidates are expected to show that they have understood the legal processes involved in relation to deciding in which court the offences should be dealt with and whether the offences can be dealt with together or separately

- Exercising judgement in deciding where the case should be dealt with (in relation to the assault allegation) and whether there should be a single trial, or more than one trial, and
- Dealing with litigants in person (unrepresented defendants). Candidates should show an understanding of how to deal with litigants in person, including altering the language they use to ensure that the defendant can effectively engage with the process (for example, by avoiding the use of jargon or making extensive references to legislation) and their answers should therefore be drafted accordingly

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

- The law in relation to suspended sentences of imprisonment. The powers of the Magistrates' Court to deal with a suspended sentence of imprisonment imposed by the Crown Court
- The matters which a court should take into account when deciding whether to activate a suspended sentence of imprisonment, and
- Candidates' judgement and decision making in how to proceed when dealing with circumstances in this case

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

- The law in relation to dealing with 2 or more individuals charged with offences arising out of the same incident
- The court's powers to deal with this case, and
- Candidates' decision making

Question 4 was designed to test the candidate's understanding of:

- The Court's power to allow evidence to be read
- The identification of the applicable law, and
- The application of the law to the facts of this case

Candidates who scored well

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

1. Expressly stated their powers and quoted the appropriate sections of the relevant Acts
2. Directly addressed the defendant. Picked up on the point that the defendants were unrepresented (questions 1 to 3) and avoided the use of technical language and jargon
3. Provided reasoned, structured easy-to-read answers
4. Planned their time effectively so that they allocated time based on the number of marks that could be awarded per question
5. In question 4, referred specifically to the interests of justice test and quoted S.114d Criminal Justice Act 2003 and then went on to apply all the criteria (a-h) under S114(2) Criminal Justice Act 2003 and explain the relevance in relation to the prosecution application to adduce the statements of the complainants as hearsay evidence
6. Adopted a structured, step-by-step approach to applying the law to the facts of this case so they reached a well-reasoned decision to allow the evidence to be read

Candidates who performed less effectively

Question 1

1. Did not always follow the instructions which required them to answer the question as if they were addressing the defendant in person. Marks were lost by these candidates for not showing how they would alter the language they used to ensure the defendant could effectively engage in the process (by avoiding jargon and extensive references to legislation)
2. Appeared not to have taken account of the new allocation guidelines contained in the pre-reading pack and made no reference to these

3. Came to the conclusion that the likely sentence would exceed their powers and sent the case to the Crown Court applying the new allocation guidelines incorrectly where the presumption is that the case will remain at the Magistrates' Court
4. Did not expressly state that the defendant could elect for trial at the Crown Court in relation to both the either way S.47 offence and the theft
5. Failed to notice that there were 2 sets of separate driving offences on 15 April 2018 and the 22 April 2018, and that the driving offences of 22 April 2018 were out of time by the time the case was heard on the 1 November 2018
6. Did not offer a well-structured, reasoned answer to enable the panel to follow the candidate's line of thinking

Question 2

1. Did not notice that the defendant was in breach of a suspended sentence and the implications thereof. The answer attracted 16 marks and this should have alerted candidates to the fact that this was not a straightforward sentence of the criminal damage offence
2. Did not always demonstrate sufficient understanding of the law in relation to the powers of the Magistrates' Court to deal with a suspended sentence. They incorrectly believed that in this case they had the power to activate the Crown Court suspended sentence

Question 3

1. Were distracted by the fact that Ms Baczer was part of the assault on the security guard and failed to recognise that she was charged with a summary only offence
2. Incorrectly applied the provisions under s51(5) and s51(6) of The Crime and Disorder Act 1998 (which only apply to a case in which there is a joint charge involving an either way offence) and as a consequence reached the incorrect decision to send an individual charged with only a summary offence, to the Crown Court

Question 4

1. Simply listed the criteria under S114(2) a-h but not how they applied to the case

Feedback from candidates

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

187 candidates responded to the survey. Based on the results of the survey:

Of the 50-minute time limit for the test:

- around 91% of candidates thought the time allocated was too short
- around 9% of candidates thought the time allocated was just right

In terms of the difficulty of the test:

- around 5% of candidates thought the test was not challenging enough
- around 48% of candidates thought the test was challenging
- around 35% of candidates thought the test was very challenging
- around 12% of candidates thought the test was too challenging

When answering Question 1:

- around 9% of candidates spent less than 10 minutes answering the question
- around 75% of candidates spent between 10 to 20 minutes answering the question
- around 16% of candidates spent more than 20 minutes answering the question

When answering Question 2:

- around 64% of candidates spent less than 10 minutes answering the question
- around 35% of candidates spent between 10 to 20 minutes answering the question
- around 0.5% of candidates spent more than 20 minutes answering the question

When answering Question 3:

- around 74% of candidates spent less than 10 minutes answering the question
- around 26% of candidates spent between 10 to 20 minutes answering the question
- no candidate spent more than 20 minutes answering the question

When answering Question 4:

- around 60% of candidates spent less than 10 minutes answering the question
- around 38% of candidates spent between 10 to 20 minutes answering the question
- around 1% of candidates spent more than 20 minutes answering the question

Other issues

There was an administrative issue caused by human error during the dispatch of outcome emails which led to a very small number of candidates receiving the wrong email. The JAC apologises to the candidates who were affected for the distress and inconvenience this error caused.