

ELA/ELBA outreach webinar – further questions

Did we hear correctly that there will be no specific focus on recruiting judges with disabilities - if so why not? And how will the online tests and other aspects of the recruitment process cater to those who need reasonable adjustments? There are well-known issues with how these sort of online tests can put such candidates at a particular disadvantage...

JAC answer: Candidates have the opportunity to state any reasonable adjustments on their application form. They are then contacted in advance of any tests/selection days by the relevant selection exercise team to discuss and agree the appropriate reasonable adjustment.

Judge Clarke: I have not said this. To the contrary, my words in the ELA Briefing article and during the session were that applications for appointment are encouraged “from candidates of all backgrounds, characteristics and personal circumstances”. I encourage candidates with disabilities to apply. We have salaried and fee paid judges, as well as non-legal members, with disabilities. The ET judiciary, like all branches of the judiciary, should reflect the society it seeks to serve.

I appreciate that judges must appear impartial. To what extent are political opinions expressed on social media taken into account?

Judge Clarke: There is guidance on this in the Guide to Judicial Conduct, which can be read at <https://www.judiciary.uk/publications/guide-to-judicial-conduct/>. See especially pages 12-13 (“Political activities”), pages 13-15 (“Public Debate and the Media”) and pages 17-18 (“Social networking, blogging and Twitter”).

As a previous applicant, I believe in 2009, I recall that referees were required which included members of the judiciary and I did not know any judges. I trust this is not a requirement now?

Judge Clarke: It is not a requirement. The JAC website provides guidance on choosing independent assessors: <https://judicialappointments.gov.uk/independent-assessments/>.

Are there to be any appointments to the 'virtual' region?

Judge Clarke: The ET virtual region is not a region as such; it is a new mechanism for bringing together uncovered cases (i.e., those which lack a judge) with available judges from other regions, who can sit on them remotely without the need to travel. There is little by way of HMCTS administration for the virtual region and no virtual REJ. Successful candidates will be allocated to one of the “physical” ET regions, which allows them to be properly mentored and to have a leadership judge, but they are likely to be expected to do some of their sittings via the virtual region. Further guidance on the operation of the virtual region – which is still developing – will be given at the time of appointment to successful candidates.

How many applicants do you expect/hope to receive for the fee paid roles?

Judge Clarke: As many as possible, I hope, as this will maximise the prospect of strong candidates. The JAC publishes diversity statistics: <https://judicialappointments.gov.uk/statistics-about-judicial-appointments/>. The JAC also publishes figures from selection exercises completed in the previous year: <https://judicialappointments.gov.uk/selection-exercises-completed-in-the-last-year/>

Is there a maximum trial length for fee paid?

Judge Clarke: Not as such, but you would start on less complex cases which tend to last a day or two, or even a few hours. Experienced fee paid judges will regularly sit on complex multi-day cases.

My employment law practice is north of the border in Scotland. Would I be at a disadvantage to apply for a fee paid role south of the border in order that I can continue to support my clients in Tribunal north of the border?

Judge Clarke: No disadvantage at all. We have several fee paid EJs with practices in Scotland. Equally, the Employment Tribunals in Scotland have several fee paid EJs with practices in England and Wales.

What support is open to CILEx lawyers in this process?

Judge Taylor: The Pre-Application Judicial Education (PAJE) programme supports talented lawyers from underrepresented groups to feel more equipped, confident and prepared when considering applying for a future judicial role. It is available to CILEx lawyers. It is a joint initiative of the Judicial Diversity Forum, which is made up of the representatives of the judiciary, the Ministry of Justice, the JAC, the Bar Council, the Law Society of England and Wales and CILEx. PAJE offers participants from all legal backgrounds the opportunity to develop their understanding of the role and skills required of a judge, through a series of digital resources including 10 short engaging online videos and four podcasts, developed by the Judicial College, which show judges talking about their work and the Judiciary. These digital resources cover a number of topics such as judgecraft, decision-making, judicial ethics, resilience and equality and diversity. To build upon learning, once participants have viewed all 10 videos, PAJE welcomes applications for places on a judge-led discussion group course. Participation in a course will enable lawyers to further explore the realities of being a judge as well as any perceptions they may have on barriers to a judicial career. The discussion groups do not provide coaching on how to approach a JAC selection exercise, but will explain the types of skills and experience you will need and get you to think about how those can be demonstrated to meet the JAC competency framework. Further details are here:

<https://www.judiciary.uk/diversity/pre-application-judicial-education-programme-paje/>

Judge Clarke: I suggest you contact CILEx. They may be able to put you in touch with members who have been appointed to judicial office, or they may be able to offer advice and support. Our first CILEx fee paid Employment Judge was appointed in 2020 and two more have been appointed in 2021. You are encouraged to apply.

What are the better examples of answers to the decision making competency. Being a solicitor and providing advice rather than making a decision for a client, I always struggle for examples of this.

Judge Clarke: Ultimately, the form is yours to complete and it is your evidence to give. I can say that I have heard many compelling examples of the “exercising judgment” competency from solicitors over the years. There is further guidance on the JAC website: <https://judicialappointments.gov.uk/how-to-prepare-before-you-apply/>. Note also what Judge Taylor says above about PAJE.