



JUDICIAL STUDIES  
BOARD

# TRIBUNAL COMPETENCES QUALITIES AND ABILITIES IN ACTION

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## INTRODUCTION

In October 2002, the Judicial Studies Board (JSB) produced, after consultation with Presidents from a wide range of tribunals, a framework of competences setting out the skills, knowledge and behavioural attributes needed to perform the judicial role in any tribunal jurisdiction. Since its publication, the JSB's *Competence Framework* has been adopted by the majority of tribunals as the foundation for the appraisal of their chairmen and members and as an invaluable tool in the design and delivery of their training programmes.

When the framework was published, the JSB expressed a commitment that its use in operation and future development would be the subject of continuous evaluation. This pledge was in recognition of the ever-changing face of administrative justice and the work of tribunals exemplified by: an ongoing programme of tribunal reform; the creation of the Tribunals Service; Royal Assent being given to the Tribunals, Courts and Enforcement Act 2007; the appointment of the Senior President; and moves towards greater commonality in training and appraisal. In February 2007, as the framework approached its fifth anniversary, the JSB began work to review and publish a revised version.

During the review process the JSB, as before, consulted extensively with Presidents, the Administrative Justice and Tribunals Council (then the Council on Tribunals), the Judicial Appointments Commission (JAC) and other related organisations. It also had regard to recent developments such as Professor Dame Hazel Genn QC's *Tribunals for Diverse Users* report and the themes that emerged from the JSB's programme to evaluate training, appraisal and mentoring in tribunals. The JSB is grateful to everyone who contributed to the consultation exercise.

The revised framework complements the work done by the JAC in its *Framework of Qualities and Abilities* – one of the tools used by the JAC to assess suitability for appointment to a judicial role in tribunals. To illustrate, the

JSB has mirrored the JAC by integrating the hitherto independent headline competence of Equal Treatment into the other headline competences and performance indicators – using the integration as an opportunity to replace the term equal treatment with the current one of fair treatment. This change accords with the views of the overwhelming majority of tribunals consulted and those of the JSB’s Equal Treatment Advisory Committee (ETAC). The title, in order to reflect the complementary nature of the two frameworks, has also been changed. It is now *Tribunal Competences – Qualities and Abilities in Action* because the JSB’s framework is aimed at the competences required for performance and professional development in the judicial role.

### **The format of the revised framework**

The framework is now divided, following the integration of Equal Treatment, into five headline competences, together with their performance indicators. They are:

- A** Knowledge and values
- B** Communication
- C** Conduct of cases
- D** Evidence
- E** Decision-making

Each headline competence represents a core element of the judicial role. Revisions have been made to the headline competences, the competences for each member of the tribunal and their resultant performance indicators. New competences relating to case management and information technology have been added.

### **Competences and performance indicators**

Although a number of textual revisions have been made, the competences remain in the left-hand column with the second column on the opposite page containing one or more performance indicators. The performance

indicators are not intended to be an exhaustive list, but examples of the evidence required to show that a particular competence has been demonstrated. The framework has been sub-divided as before between those competences applicable to chairmen, specialists and members. Although, in due course, all Tribunals Service chairmen will become judges, the JSB was mindful that its scheme is used equally by those who sit as non-legal chairmen of panels and those who sit alone as adjudicators or arbitrators, hence the decision to retain the generic word ‘chairman’.

### Using the Competence Framework

The revised framework is designed to provide fair and unbiased criteria to help facilitate appraisal of chairmen and members in tribunals. Indeed, several of the new competences and performance indicators have been included to make the process of appraisal easier, based on the feedback received from tribunals on their application of the previous version of the framework. In addition, it retains its value as an aid to the competence-based approach to training to ensure that an individual’s ongoing development needs are met effectively.

### Further information

The JSB hopes that you will find the revised framework of continued value to your tribunal or organisation and welcomes your comments and views on it. If you need any further advice on how the framework might be used in your jurisdiction in the application of training or appraisal, please contact the JSB at [tribunals@jsb.gsi.gov.uk](mailto:tribunals@jsb.gsi.gov.uk).

## A KNOWLEDGE AND VALUES

### Competence

#### Chairmen, specialists and members

1 Understands the legal framework, jurisdiction, procedures and subject matter of the tribunal.

2 Exhibits professionalism and shows commitment by applying him/herself to providing high standards of public service.

3 Is aware of and respects diversity in all its forms. Such diversity may be related, although not exclusively, to beliefs, gender, race, religious customs, age, disability, mental capacity, sexual orientation, transsexuality, social or economic status, marital or civil partnership status and lifestyles.

#### Specialists

4 Possesses an in-depth and up-to-date expert knowledge of the relevant subject matter of the tribunal's jurisdiction.

#### Chairmen

5 Possesses a detailed knowledge of the jurisdiction, law and practice relevant to the tribunal.

TO ENSURE a suitable level of knowledge of the jurisdiction, law and procedure of tribunals and an understanding of the appropriate principles and standards.

### Performance Indicator

#### Chairmen, specialists and members

- Can accurately describe and explain the tribunal’s legal framework, jurisdiction, procedures and subject matter.
  - Can describe the collective and respective roles of the tribunal’s members and staff.
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- Is properly prepared for each case.
  - Ensures the requirements of those with additional needs are properly met.
  - Shows an ability and willingness to learn and develop professionally.
  - Complies with the training requirements of the tribunal and takes responsibility for his/her own professional development.
- 
- Identifies, acknowledges and sets aside personal prejudices.

#### Specialists

- Can explain in detail the relevant subject matter of their tribunal, within their field of expertise, and its application, keeping up to date with their relevant area of specialism.

#### Chairmen

- Identifies the issues in the case.
- Properly applies appropriate and relevant legal rules to the issues before the tribunal.
- Obtains further advice or information from appropriate sources when required.
- Keeps up to date with changes in the law, and considers the availability and appropriate use of alternative forms of proportionate dispute resolution.
- Conducts the proceedings in accordance with the tribunal’s procedural rules or regulations, taking account of all the reasonable needs of those participating in the hearing.

## B COMMUNICATION

### Competence

#### Chairmen, specialists and members

1 Communicates effectively.

2 Makes effective use of supporting computing facilities and appropriate software.

#### Specialists

3 Communicates effectively.

#### Chairmen

4 Facilitates the participation of all parties, representatives and members to ensure fair treatment and a fair hearing.

5 Communicates effectively.

TO ENSURE effective communication between all tribunal chairmen, members, parties and members of staff.

### Performance Indicator

#### Chairmen, specialists and members

- Uses correct forms of address and appropriate language.
- Asks relevant questions and/or makes comments in a manner that is sensitive to all.
- Takes steps to facilitate effective communication and eliminate or reduce, so far as practicable, potential difficulties for those appearing before the tribunal.
- Treats everyone with respect.
- Asks clear, concise, relevant and understandable questions.
- Uses language that is readily understood by all.
- Avoids inappropriate comments.
- Employs active listening skills and uses appropriate body language.
- Regularly checks the understanding of all participants including colleagues.

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- Uses Word, e-mail and the Internet as required.

#### Specialists

- Provides clear advice to members and clear explanations to parties, on matters within the specialist's areas of expertise.

#### Chairmen

- Elicits the extent of the understanding of those appearing before the tribunal, from the outset of the proceedings.
- Makes effective use of those who facilitate, support, interpret, assist and represent throughout the tribunal process, to enable all to participate fully in the proceedings, and ensures effective use of all types of communication aids.

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- Explains any relevant legal, evidential or procedural issues to tribunal members and the parties in language that is readily understood by all.
  - Articulates decisions using clear and concise language so that the parties understand the findings, reasons and decisions.

## C CONDUCT OF CASES

### Competence

#### Chairmen, specialists and members

1 Conducts him/herself in a manner that establishes and maintains the independence and authority of the tribunal.

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2 Demonstrates integrity and independence.

#### Chairmen

3 Facilitates the full participation of all parties, representatives and members to ensure fair treatment and just outcome.

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4 Manages the hearing in a manner that enables proper participation by all those present.

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5 Deals effectively with case management issues.

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6 Manages the hearing to facilitate a fair and timely disposal.

TO ENSURE their fair and timely disposal.

### Performance Indicator

#### Chairmen, specialists and members

- Recognises and discloses any potential conflict of interest.
  - Is punctual, well-prepared and dresses appropriately.
  - Recognises and respects the needs of those appearing without representation.
  - Behaves in a measured, calm and non-confrontational manner.
  - Participates in the tribunal in a way that enhances and promotes fair treatment.
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- Is objective, open-minded and inspires respect and confidence.

#### Chairmen

- Maintains a proper balance between (1) assisting those appearing at the tribunal and enabling them to participate fully and (2) the impartiality of the tribunal.
  - Takes account of all factors that may undermine the fair treatment of all those before the tribunal.
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- Introduces members of the tribunal and explains the tribunal's procedures.
  - Ensures that each party is properly heard.
  - Explains to the parties what will happen after the hearing has ended.
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- Estimates time realistically and works within time limits.
  - Prioritises effectively and minimises delays and irrelevancies.
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- Holds any necessary pre-hearing meetings to agree members' roles, identify issues, etc.
  - Maintains an effective working relationship with staff and clerks.
  - Keeps a legible and accurate record of the proceedings.
  - Identifies areas of agreement between parties.
  - Ensures that if a party does not attend, the case is properly considered in accordance with the rules of procedure and the requirements of justice.
  - Makes fair and effective use of adjournments while minimising delay.
  - Deals with conflicts of interest.
  - Deals effectively with inappropriate conduct.
  - Maintains effective control with a proper balance between formality and informality.

## D EVIDENCE

### Competence

#### Chairmen, specialists and members

- 1 Undertakes necessary preparatory work for all cases.
- 2 Identifies and assimilates relevant facts and expert evidence.
- 3 Asks questions concerning material issues.

#### Specialists

- 4 Can extract relevant facts from evidence submitted within their field of expertise.

#### Chairmen

- 5 Conducts the hearing to encompass all relevant issues.
- 6 Seeks further evidence as required.

TO ENSURE that all relevant issues are addressed by eliciting and managing evidence.

### Performance Indicator

#### Chairmen, specialists and members

- Exhibits familiarity with the points at issue in the case.
  - Identifies the areas requiring clarification or investigation.
  - Quickly and fully absorbs and analyses information.
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- Identifies and uses only relevant facts and expert evidence from written and oral sources.
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- Asks questions in such a way as to elicit evidence relevant to the issues.

#### Specialists

- Provides clear and concise advice and guidance on relevant information extracted from financial accounts, medical reports, etc as applicable.

#### Chairmen

- Elicits relevant evidence.
  - Ensures all and, as far as possible, only relevant issues are addressed and considered.
  - Facilitates, as and when necessary, the asking of relevant questions by tribunal members.
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- Calls for additional reports and other evidence where necessary and appropriate.

## E DECISION-MAKING

### Competence

#### Chairmen, specialists and members

- 1 Takes an active part in deliberations and decision-making, demonstrating sound judgement.

#### Specialists

- 2 Provides specialist advice.

#### Chairmen

- 3 Involves all members in the deliberations and decision-making.

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- 4 Establishes a structured decision-making process.

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- 5 Delivers the decision promptly.

TO ENSURE effective deliberation, structured decision-making and disposal of the case.

### Performance Indicator

#### Chairmen, specialists and members

- Appropriately participates in the decision-making process.
- Expresses opinions in discussion relevant to the issues.
- Considers opinions and advice of others before making a decision.
- Properly weighs the sufficiency and quality of evidence.
- Makes reasoned decisions based on the relevant law and findings of fact.

#### Specialists

- Provides clear and accurate advice and guidance to the tribunal on matters within their area of expertise, as required.

#### Chairmen

- Summarises the issues and, if necessary, reminds the panel of the evidence and relevant law before initiating deliberations.
- Gives advice on burden and standard of proof.
- Seeks relevant advice from any specialist member and/or qualified clerk.
- Ensures that there is an opportunity for full discussion and enables each member to express an opinion and reach a reasoned conclusion on the issues to be decided.

- Ensures that the tribunal identifies the issues, makes finding of fact and provides reasons that indicate application of the relevant law.
- Ensures that proper consideration is given to the reasoning of all members when there is a disagreement on any finding of fact, issue or decision.
- Ensures that a clear and final decision is reached on each issue and that the decision and reasons are agreed and recorded.

- Drafts written decisions/Statements of Reasons/Determinations, within any appropriate time limits, which clearly and adequately record the findings and decisions.









