



JUDICIAL STUDIES
BOARD

APPRAISAL STANDARDS AND APPRAISER COMPETENCES IN TRIBUNALS

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SENIOR PRESIDENT
OF TRIBUNALS

I am pleased to be asked to write the foreword to what is effectively the second edition of the JSB's Appraisal Standards Framework. Originally published in 2003, it has been substantially revamped in the light of the recommendations which emerged from the first two phases of the JSB's evaluation programme – which concluded in 2008 – and in close collaboration with the Tribunals Judicial Welfare and Appraisal Group (TJWAG) which reported to me at the end of 2008.

The term 'standards' has replaced 'principles' in the title of the Framework to signify that the revised edition represents a considerable raising of the bar. It includes for the first time a competence framework for the appraisers themselves, to provide a common understanding of what is required of appraisers, particularly in what I know to be some of the most challenging parts of the role – giving objective feedback and writing appraisal reports.

I consider appraisal very important, if judges are to be enabled to perform their roles effectively and develop their potential. I am keen that we start work on a common appraisal scheme for the Tribunals Service built around this framework and drawing on the good practice that already exists in many tribunals. I am hopeful that the new Framework will also provide a real prospect of appraisals being used more formally to support judicial recruitment and advancement.

However, if high standards of appraisal are to be consistently maintained appraisers need to be trained for their role. The JSB has therefore designed an *Appraisal Skills Follow-Up Seminar* based on the appraiser competences. It is aimed at those who have attended an appraiser induction course, already have some experience of appraising and offers them the opportunity to meet appraisers from other jurisdictions to share their views and experience.

I also take this opportunity to commend the Standards and Competences to all tribunals including those tribunals and bodies outside the Tribunals Service and elsewhere in the UK that wish to introduce or develop their own arrangements.

Finally, I offer my thanks to all those responsible for this important project.

Lord Justice Carnwath
Senior President of Tribunals

APPRAISAL STANDARDS AND APPRAISER COMPETENCES IN TRIBUNALS

Appraisal is a common feature of many working environments where it is used as an element in the measurement of effective performance. Sir Andrew Leggatt recommended in *Tribunals for Users* that all tribunal chairmen and members should participate in an annual review of their performance while sitting and that tribunals should aim to recognise a culture of advancement through assessment.¹

In November 2003 the Judicial Studies Board published its *Fundamental Principles and Guidance for Appraisal in Tribunals* to complement its *Competence Framework for Chairmen and Members of Tribunals*. In 2007 the Competence Framework was revised and the JSB's *Tribunal Competences – Qualities and Abilities in Action* was published. It is now, therefore, appropriate to draw on the experience of the jurisdictions which have been conducting appraisals and on the JSB's evaluation of training and appraisal to publish revised *Appraisal Standards in Tribunals* to complement the JSB's *Tribunal Competences – Qualities and Abilities in Action* and, for the first time, to include *Appraiser Competences* in order to continue to encourage consistency of appraisal standards across jurisdictions.

The *Appraisal Standards in Tribunals*, the *Model Appraisal Scheme* and *Appraiser Competences* have, as previously, been drawn up following consultation with a wide range of Chamber Presidents and Presidents of tribunals and those responsible for training and appraisal in tribunals. They aim to enable appraisal assessment that is constructive and evidence-based and to address a variety of issues in order that those both within and without a tribunal can be confident that the scheme adopted is appropriate to the jurisdiction, its size and the composition of its membership.

The *Appraisal Standards* cover:

- Objectives for an appraisal scheme, responsibility for its operation, the scope of the schemes and frequency of appraisal.
- Appraisal criteria, training for appraisers and familiarity of the scheme for those being appraised.
- The outcome standards and the appraisal process.
- Administration of an appraisal scheme and the use of the appraisal information.

The JSB's *Tribunal Competences – Qualities and Abilities in Action* provides the framework for the appraisal criteria in the *Appraisal Standards in Tribunals* and the *Model Scheme*.

- The *Standards* specify those elements which are considered essential for effective appraisal and are shown in normal type.
- Issues for guidance and further consideration are shown in *italics*.
- The *Model Scheme* provides an example that can be adapted to the needs of a variety of types of tribunals. Although it incorporates elements identified as fundamental it also provides for variations according to the constitution of the tribunal. Tribunals that have few members or sit infrequently may need to modify the model.
- The *Annexes* to the *Model Scheme* contain the documents referred to in the scheme and are intended to provide examples of good practice that can be used in the operation of the scheme.

Since the inception of the Tribunals Service in 2003 and the restructuring of tribunals into Chambers in 2008, even more tribunal judges and members sit in two or more jurisdictions and may expect to be appraised in each of them. The *Appraisal Standards in Tribunals*, *Model Appraisal Scheme* and *Appraiser Competences* together create the opportunity for consistency of practice, procedure, standards, documentation and vocabulary in order to maintain standards across Chambers and jurisdictions and provide some commonality. They seek, where possible, to encourage those jurisdictions which share judges and members to agree an appraisal framework that minimises the risk of ‘over-appraisal’ and the expectation that whenever appraisal is being undertaken it will be conducted along similar lines. The appraiser competences are a new addition to the framework and aim to further increase consistency of approach by those tasked with appraising with the possible benefit that appraisal outcomes can be used as evidence of suitability for appointment and promotion purposes.

The *Appraiser Competences* address:

- The personal qualities required of those who undertake appraisal and the responsibilities of the role of appraiser.
- Pre-appraisal preparation, including understanding the competence-based approach to appraisal.
- The appraisal day, including accurate observation of the appraisee and assessment of performance against competences observed.
- Immediate post-appraisal feedback and discussion, including maintenance of objectivity and giving of constructive feedback.
- Reaching agreement and report-writing, including the ability to summarise fairly and accurately, in written form, the key outcomes from the observation and discussion.

In addition the *Appraiser Competences* can be used:

- To define the role of the appraiser and to give guidance to potential appraisers about what the role of the appraiser involves.
- To provide those who are undergoing appraisal with an expectation of the process and of the appraiser’s role.
- As a syllabus or basis of a programme upon which to build training courses and coaching.
- To provide a check-list or prompt whereby, periodically, appraisers might reflect on their own performance.
- As a tool to achieve greater consistency between the different tribunal jurisdictions.
- As a source of ideas and indications of good appraisal practice when difficulties or problems arise.

The *Model Scheme* and its *Annexes* and *Appraiser Competences* will be available as templates from the JSB in order that tribunals may adapt them for their own purposes and to enable the appraisal forms to be distributed electronically for completion during appraisal. The terms ‘President’ and ‘Principal Judge’ are used in this framework to denote the judicial head with responsibility for the appraisal scheme. In the Tribunals Service the Senior President has overall responsibility, but this may be vested in Chamber Presidents, Deputy Presidents and, in some cases, the Principal Judge. Outside the Tribunals Service, it is usually tribunal presidents who assume responsibility for appraisal but this may not always be the case and sometimes there may not be a titular head at all.

Further information

The JSB has been providing appraisal training for those nominated by their jurisdictions for some years. If you need further advice on appraisal or appraiser training or on how an appraisal scheme might be implemented in a particular tribunal or jurisdiction, please contact the JSB at tribunals@jsb.gsi.gov.uk.

¹ Recommendation 161. *Tribunals for Users*. Sir Andrew Leggatt, HMSO 2001.

APPRAISAL STANDARDS IN TRIBUNALS

A Objectives for an appraisal scheme

1 An appraisal scheme must be expressed with clear and specific objectives that identify the needs of both the jurisdiction and the individuals who work within it.

The objectives must address the need to:

- Maintain public confidence in judicial performance as a result of regular monitoring.
- Maintain standards and consistency of practice.
- Ensure individuals endeavour to demonstrate the appropriate qualities and abilities for effective performance of their role.
- Provide a practical framework for individual performance to be measured against the JSB's *Tribunal Competences – Qualities and Abilities in Action* and the jurisdiction's standards.
- Identify individual training and development needs.
- Provide training programmes informed by the identification of particular needs.
- Create opportunities for individuals to raise issues relating to procedures, training and their sitting experience.

There may be further objectives in those jurisdictions that deal with a wide variety of work or have a ticketing system. In such jurisdictions the objectives may also specify the need to ensure the appropriate allocation of sufficient numbers of properly trained judges and members.

Periodic independent evaluation of the appraisal scheme and its operation against these Appraisal Standards would assist the President or the Principal Judge ensure that the scheme is meeting its objectives.

2 So far as practicable, an appraisal scheme should adhere to the fundamental principles of judicial appraisal.

These principles require that every scheme must ensure:

- Openness and transparency, consensus and fairness.
- The maintenance of judicial independence.
- Confidentiality.
- That the appraisal assessment is constructive, evidence-based and focused on the JSB's *Tribunal Competences – Qualities and Abilities in Action*.
- The provision of timely support for members in the development of skills necessary for the performance of their role.
- A non-interventionist approach on the part of the appraiser during observation.

Where a jurisdiction also operates a mentoring scheme, issues of confidentiality may arise. It is therefore important to ensure that anyone who undertakes appraisal is not also the appraisee's mentor.

B Responsibility for the operation of the scheme

The overall responsibility for the appraisal of judges and members lies with the Chamber President, President or the jurisdictional Principal Judge.

The President or Principal Judge must:

- Ensure consistency of the operation of the scheme.
- Ensure that identified training needs are met in a timely and appropriate way.
- Regularly review the effectiveness of the scheme.
- Consider appropriate revision of the scheme as necessary.
- Devise and implement a procedure for resolving disputes concerning appraisal.

It may be necessary to delegate management of the scheme to a senior tribunal judge or member, or to an appraisals committee.

C Scope of the scheme

1 An appraisal scheme must be comprehensive.

All tribunal judges and members will be appraised.

Where full-time judges and members are being appraised, the scheme may need to address additional aspects of the person's role within the jurisdiction (e.g. leadership and management roles).

Appraisal of specialist members may, in addition to appraisal against the JSB Competences, need to address specific professional requirements.

In the case of medical members who are retired from practice, this should include appraisal of medical competence in line with GMC guidelines and would require a specialist appraiser in addition to a judicial appraiser.

In the case of medical members still in practice, it would be at the discretion of the jurisdiction as to whether a separate medical appraiser is appropriate.

2 An appraisal scheme must specify the qualities and responsibilities of those judges and members who undertake appraisals.

Appraisal must only be undertaken by judges and members of the jurisdiction who:

- Satisfy the appraiser competences identified in this framework.
- Have been trained to undertake appraisals.
- Have themselves been satisfactorily appraised.

Appraisers will be committed to the principle of continuous personal development.

In order to devote sufficient attention to the appraisee, appraisers should undertake appraisal in respect of only one appraisee on each occasion.

It is also not advisable for the appraiser to sit as part of the panel because the appraiser needs to be an objective observer, detached from the decision-making process. Otherwise, he or she may have difficulty devoting sufficient attention simultaneously to both the proceedings and the appraisal process.

Where possible, in jurisdictions introducing peer appraisal for the first time, appraisers should appraise each other before appraising the membership – this will involve judicial resource issues which will need to be addressed.

In very small jurisdictions, it may be appropriate to have support from a judge or judges in another jurisdiction in the same Chamber to assist in the conduct of appraisal.

D Frequency of appraisal

Appraisal must take place on a regular basis on a date agreed by the appraiser and the appraisee.

Newly appointed members must be appraised after the first 12 months of sitting or after a specified number of sittings.

Subsequent appraisal should take place within three years of the initial appraisal and at least every three years thereafter, unless a further appraisal has been identified as necessary before the completion of the three-year cycle.

Where a member is cross-ticketed or assigned to an additional jurisdiction, consideration should be given to the question of whether the new jurisdiction is sufficiently different from the original jurisdiction to require a fresh appraisal in the new jurisdiction. If so, this should occur after 12 months of sitting in the new jurisdiction, or after a specified number of sittings, whichever ever occurs first.

In some jurisdictions frequency of appraisal may be more appropriately based upon the number of sittings. Annual self-assessment may also be used to focus on any developmental needs that have arisen between appraisals.

It may be necessary for those Presidents or Principal Judges who share judges and members to agree an appraisal framework that minimises the risk of 'over-appraisal'.

E Training for appraisal

- 1 Appraisers must attend appraisal skills training before any appraisals are undertaken. They must also attend a follow-up multi-jurisdiction seminar and undertake refresher training.

Training for appraisers must be undertaken in accordance with the JSB *Tribunal Appraisal Standards* and the JSB *Appraiser Competences* in preparation for (and when undertaking) an appraisal, giving feedback and writing an appraisal report.

Appraiser training must address the skills required to:

- Assess performance against the competences.
- Encourage self-appraisal.
- Give constructive feedback.
- Write a comprehensive report.
- Enable production of an effective self-development plan.

Appraisers must attend meetings of appraisers to review the jurisdiction's scheme and share experience with other appraisers in the jurisdiction.

Follow-up multi-jurisdiction training should be undertaken 18 to 24 months after undertaking a first appraisal.

Refresher training should be undertaken every three or four years.

The JSB provides induction, multi-jurisdiction seminars and follow-up appraiser training. The main advantages of multi-jurisdictional training, once individuals have had some experience of appraising, are the encouragement of sharing good practice and learning from the experience of others.

- 2 An introduction to the appraisal scheme must be included in training.

Induction training must enable new members to understand the purpose of the appraisal scheme and ensure that they are appropriately prepared.

An explanatory guide outlining the scheme and its objectives should support such training.

The appraisal scheme, its accompanying documentation and an explanatory guide should also be made available as hard copy to all judges and members, for example in the jurisdiction handbook. It may also be published on the private judicial website or intranet.

F Appraisal criteria

Every appraisal scheme must have a set of competences against which the appraiser can measure the performance of the appraisee.

The JSB's *Tribunal Competences – Qualities and Abilities in Action* provides a framework for appraisal criteria.

The core competences are:

- Knowledge and values.
- Communication.
- Conduct of cases.
- Evidence.
- Decision-making.

Application of *The Principles of Fair Treatment* pervades all the competences. Every appraisal must include an assessment of the appraisee's awareness of diversity and the appraisee's willingness and ability to ensure fair treatment for all users.

Although it is important to ensure that common standards are maintained across jurisdictions, individual jurisdictions may feel that they have to make minor changes to the JSB's Tribunal Competences – Qualities and Abilities in Action in order to meet their particular jurisdictional needs and some of the competences may not fully apply in all cases. However, the JSB's Tribunal Competences should not be adapted or modified unless it is necessary to do so, and not without first consulting the Senior President.

Specialist members with professional qualifications must maintain their specialist skills and keep up to date in accordance with the Continuing Professional Development and registration requirements of their profession and their jurisdiction. Moreover, all non-legal members whose appointment was based upon a specialist qualification should be appraised according to a common scheme.

Appraisal of full-time tribunal judges and members exercising leadership and management roles should reflect those additional elements.

Appraisal of specialist and management and leadership skills may need to be by way of a separate element, involving an appraiser trained to appraise those competences.

G Outcome standards

An appraisal scheme must identify outcome standards to reflect the level of competence attained.

The JSB's *Tribunal Competences – Qualities and Abilities in Action* identifies a threshold level of competence that lends itself to two outcome standards: 'Satisfactory' and 'Developmental needs identified'.

Where two such outcome standards are adopted, exceptional performance can be acknowledged in the written feedback.

A jurisdiction that identifies two or more levels of acceptable competence must also clearly articulate the attainment criteria relevant to each level, in order that a member not classified at the highest level will know how to achieve this standard of outcome in the future.

H The appraisal process

1 An appraisee must complete a self-assessment form prior to an appraisal visit.

The self-assessment form must contain clear guidance to assist the appraisee prepare for an appraisal.

The completed self-assessment form will be available to the appraiser in advance of the appraisal to enable an effective dialogue between appraiser and appraisee.

2 Appraisal must be based upon sufficient evidence to reflect the range of work done in the jurisdiction.

Appraisal should normally include observation by the appraiser and, in the case of tribunal judges and chairs who draft written decisions, consideration of at least two such decisions.

Assessment of the full range of competences may include evidence of:

- Recent decisions or statements of reasons.
- Information about training events attended by the member since appointment or the last appraisal.
- The most recent previous appraisal and any personal development plan (a recent appraisal from a different jurisdiction may be taken into account where appropriate).
- Adjournment rates, the prompt and timely return of written decisions, and decisions successfully appealed.
- The number of sittings undertaken annually.

Feedback by the appraiser must relate to the JSB's *Tribunal Competences – Qualities and Abilities in Action* and must be evidence-based. Adequate opportunities must be created for timely and constructive confidential feedback.

Appraisers will have reference to the JSB's Appraisal Standards and Appraiser Competences in preparation for (and when undertaking) an appraisal, giving feedback and writing an appraisal report. A different or additional appraisal process may be necessary for specialist and non-legal members where, for example, the requirements of other professional bodies need to be taken into account.

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H The appraisal process (cont.)

3 The outcome of an appraisal must be agreed by the appraiser and the appraisee and reported using standard forms.

The appraiser and appraisees must agree the outcome of the appraisal.

Any disagreements between appraiser and the appraisee should be referred to the jurisdiction's appraisal dispute procedure.

All judges and members must have the opportunity to complete a self-development plan, which should identify scope for improvement – irrespective of outcome achieved. Any proposed self-development plan should take resources into account as well as the issues raised by the appraisal.

In cases where agreement cannot be reached, both views may be recorded on the appraisal report form. The dispute resolution process should determine whether to confirm the appraisal outcome, amend it or arrange for re-appraisal.

4 A clear remedial strategy will be required where the outcome of the appraisal falls below the level of 'satisfactory'.

A remedial strategy must contain an agreed self-development plan to support the judge or member's training needs and must identify the specific aspects of performance that need to be addressed.

Any disagreements between appraiser and the appraisee should be referred to the jurisdiction's appraisal dispute procedure.

J Administration of the scheme

Every jurisdiction should strive to ensure that sufficient judicial resources and administrative arrangements are in place to support the efficient management of an effective and continuing appraisal scheme.

The President, Principal Judge or his/her delegate will manage the administration of the appraisal scheme.

The Tribunals Service, or relevant sponsoring department, must address the provision of adequate judicial and administrative resources to support appraisal.

It may be appropriate to conduct appraisal on a regional or district basis where a jurisdiction is so divided.

A jurisdiction may consider it appropriate to ensure, where possible, that an individual judge or member is not appraised by the same appraiser on successive occasions.

The administrator will need to consider the day-to-day organisation of the appraisal scheme which may include some or all of the following:

- Identifying an appraiser and providing contact details of both appraiser and appraisee.
- Confirming the appraisal date with the appraiser and appraisee and notifying the listing officer, distributing the self-assessment forms.
- Liaising with the listing officer to ensure that the member has an appropriate list for the appraisal day, providing information about training events attended, number of sittings undertaken annually, adjournment rates, the prompt and timely return of written decisions, and decisions successfully appealed.
- Providing the most recent previous appraisal and any self-development plan.
- Receiving the completed appraisal and self-assessment forms.
- Forwarding requests for further training to the training officer.
- Providing a copy of the completed appraisal to the member.
- Entering the relevant information into the tribunal database, taking into account issues of data protection.

In order to reduce the administrative burden, the appraiser and appraisee may have joint responsibility for making contact with each other and agreeing a date for the appraisal, which they will notify to the listings officer and the administrator.

Electronic distribution of self-assessment forms and appraisal forms will enable electronic completion and return, and help with effective data collection.

Where appropriate the relevant appraisal administrator will provide the statistical information on sittings, appeals, cancellations and adjournments to the appraiser and provide copies of recent decisions or statement of reasons written by a tribunal judge.

K Use of the appraisal information

An appraisal report will be confidential to the appraiser, the appraisee, and the President or Principal Judge and those to whom the relevant responsibilities have been delegated.

Where training needs are identified on an individual or a jurisdictional level there shall be feedback to the tribunal training officer in order that those needs can be met.

Where training needs are identified in respect of an individual member any feedback to the tribunal judicial training officer will be in confidence.

Good practice identified during appraisals should also be shared through training with all judges and members of a jurisdiction in order to enhance both individual and jurisdictional performance.

The President or Principal Judge may need to include general information about appraisal in the jurisdiction's Annual Report and may also use an individual's record for the purpose of providing a reference to the JAC, and when considering cross-ticketing, assignment or judicial advancement.

MODEL APPRAISAL SCHEME

A Objectives for an appraisal scheme

- i) The overall objectives for the appraisal scheme are to:
- Ensure the maintenance of the tribunal's standards and consistency of its practices.
 - Ensure that the tribunal's training programmes are informed by the identification of particular needs.
 - Maintain public confidence in judicial performance as a result of regular monitoring.
 - Ensure that all members endeavour to demonstrate the appropriate qualities and abilities for effective performance of their role.
 - Enable individual performance to be measured against the tribunal competences and standards.
 - Identify individual training and development needs.
 - Create opportunities for members to raise issues relating to their experience in sitting, training and tribunal procedures.
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- ii) [In addition, the scheme will enable the President to ensure the appropriate allocation of members to cases.]
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- iii) [Periodic independent evaluation of the Appraisal Scheme against the JSB's *Appraisal Standards* will assist the President ensure that the scheme is meeting these objectives.]
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- iv) In the operation of the appraisal scheme the tribunal is committed to:
- Principles of openness and transparency, consensus and fairness.
 - Maintenance of judicial independence.
 - Confidentiality.
 - Appraisal assessment that is constructive, evidence-based and focused on the tribunal competence framework of qualities and abilities.
 - Timely support for members in the performance of their role.
 - Ensuring a non-interventionist approach on the part of the appraiser during observation.
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- v) The appraisal scheme will be separate and distinct from the mentoring scheme that the tribunal operates.

See A of Appraisal Standards on page 4.

B Responsibility for the operation of the scheme

- i) The overall responsibility for the appraisal of members lies with the Chamber President [jurisdictional Principal Judge or Tribunal President].
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- ii) The [President] will oversee the operation of the scheme, in order to:
- Ensure consistency of the operation of the scheme.
 - Ensure that identified training needs are met in a timely and appropriate way.
 - Review the effectiveness of the scheme.
 - Consider appropriate revision of the scheme when necessary.
 - Devise and implement a procedure for resolving disputes concerning appraisal.
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- iii) [The [President] may delegate management of the scheme, or aspects of its operation, as is considered appropriate.]

See B of Appraisal Standards on page 5.

C Scope of the scheme

- i) The appraisal scheme shall cover all tribunal judges, including specialist and non-legal members of the tribunal.

- ii) Appraisal will be undertaken by members of the jurisdiction who satisfy the appraiser competences identified in this scheme, have been trained to undertake appraisals and who have themselves been satisfactorily appraised.

- iii) Appraisers will be committed to the principle of continuous personal development.

See C of Appraisal Standards on page 6.

D Frequency of appraisal

- i) All appraisals shall take place on a date agreed by the appraiser and the appraisee.

- ii) Initial appraisal of newly appointed tribunal members will take place 12 months after induction.

- iii) Subsequent appraisal will take place within [three] years of the initial appraisal and [three-yearly], thereafter, unless the need for a further appraisal has been identified as necessary before the completion of the [three]-year cycle.

- iv) Where a member is newly ticketed or assigned to this jurisdiction, there should be an initial appraisal in this jurisdiction after 12 months of sitting [or after x number of sittings, whichever occurs first] irrespective of whether there has been a recent appraisal in another jurisdiction.

- v) All members must complete an [annual] self-assessment form to be returned to the [tribunal appraisals administrator] [President/Regional Tribunal Judge] in the period between appraisals.

See D of Appraisal Standards on page 7.

E Training for appraisal

- i) The tribunal [training officer] will ensure that appropriate induction training and regular refresher training is provided for those appointed to appraise.

- ii) Appraiser training will be by reference to the JSB's *Tribunal Appraisal Standards* and *Appraiser Competences* and address the skills required to:
 - Assess performance against the competences.
 - Encourage self-appraisal.
 - Give constructive feedback.
 - Write a comprehensive report.
 - Enable production of an effective self-development plan.

- iii) Appraisers will attend meetings of appraisers to review the tribunal scheme and share experience with other appraisers in the jurisdiction to ensure consistency of appraisal standards.

- iv) Follow-up multi-jurisdiction training will be undertaken 18 to 24 months after undertaking a first appraisal.

- v) Refresher training will be undertaken every three or four years.

- vi) The [training officer] must ensure that the purpose and the scope of the appraisal scheme are addressed in induction training for tribunal judges, specialist and non-legal members.

- vii) The appraisal scheme, its accompanying documentation and the explanatory guide will be available to all members [in the tribunal handbook] [on the tribunal private website/intranet].

See E of Appraisal Standards on page 8.

F Appraisal criteria

- i) The tribunal has adopted the JSB's *Tribunal Competences – Qualities and Abilities in Action* as the basis for the criteria for its appraisal scheme and distinguishes between the skills of the legal member and the specialist and other members. The competence framework focuses upon:
- Knowledge and values.
 - Communication.
 - Conduct of cases.
 - Evidence.
 - Decision-making.
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- ii) Application of *The Principles of Fair Treatment* pervades all the competences. Every appraisal will include an assessment of the appraisee's awareness of diversity and the appraisee's willingness and ability to ensure fair treatment for all users.
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- iii) [In addition the tribunal has identified criteria that reflect particular competences that are required in this jurisdiction for its specialist members and those who have management responsibilities. (See additional jurisdiction-specific criteria.)]
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- iv) Appraisal of members will take into account judicial experience and address the continuing professional development needs of those recently appointed.
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- v) The JSB's *Tribunal Competences – Qualities and Abilities in Action* is available on the JSB's website at www.jsboard.co.uk [and on the tribunal private website/intranet].

See F of Appraisal Standards on page 9.

G Outcome standards

- i) On completion of the appraisal, the appraiser shall indicate on the appraisal form whether the member is considered:
 - *Satisfactory.*
Or whether there are
 - *Developmental needs identified.*

- ii) To be considered '*satisfactory*' a member will have satisfied all the basic competences as identified in the JSB's *Tribunal Competences – Qualities and Abilities in Action* [and in the additional jurisdiction-specific criteria].

- iii) A member who has failed to achieve a satisfactory level of competence as will be considered as requiring further development.

- iv) Newly appointed members shall be assessed according to the same criteria as established members, taking into account their limited experience.

See G of Appraisal Standards on page 10.

H The appraisal process

- i) Three weeks prior to the agreed appraisal date the relevant judge or member will be sent a self-assessment form to complete (see Annex A), which will enable the appraisee to prepare for the appraisal. This will be available to the appraiser during the feedback session.
- ii) The appraisal will consist of observation by the appraiser in the normal course of a day's hearings, discussion with the judge/member of the self-assessment form at the end of the proceedings and feedback on the judge/member's performance. Feedback from the appraiser will relate to the competences and be evidence-based. Adequate opportunities must be created for timely and constructive confidential feedback. Appraisers will have reference to the JSB's *Tribunal Appraisal Standards* and *Appraiser Competences* in preparation for undertaking an appraisal, giving feedback and writing an appraisal report.
- iii) In addition the appraiser will take into account:
 - [Two] recent decisions (statement of reasons) of tribunal judges.
 - Training events attended by the judge/member since appointment or the last appraisal.
 - The most recent previous appraisal and any personal development plan.
 - [The number of appeals from a tribunal judge's decisions].
 - [The tribunal judge's adjournment rate], [cancellation of sittings], [number of sittings undertaken annually].
- iv) The appraiser will complete the appraisal report form (see Annex B) in draft and indicate whether the judge's or member's performance is *satisfactory* or *in need of further development*. The appraisee will receive a copy of this, complete the relevant section and, if it is agreed, will sign the form and return it with the self-assessment form to the appraiser who will sign it and forward it to the [tribunal appraisals administrator] [President/Regional Tribunal Judge].

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H The appraisal process (cont.)

- v) Where appropriate, very good performance may be commended on the appraisal form and areas for self-development identified, consistent with available resources, even for those considered *satisfactory*.
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- vi) Where the judge or member has been marked *in need of further development*, the remedial strategy will include a self-development plan (see Annex C) that must be completed to identify the specific aspects of performance which need to be addressed to improve performance. The plan must be agreed by the appraiser and the judge/member and forwarded to the [tribunal appraisals administrator] [the judge to whom relevant responsibility has been delegated] with the appraisal report and the self-assessment form. The self-development plan may include:
- Additional training.
 - Guidance from the mentor.
 - Sitting with an experienced member.
 - Further appraisal visits.
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- vii) Any disagreement between the appraiser and the judge/member about the feedback on the judge/member's performance or the content of the appraisal report should be resolved between themselves. If this is not possible, and the judge/member is still not satisfied, he or she may apply in writing to [the President] to resolve the dispute by confirmation or amendment of the outcome or by re-appraisal by a different appraiser.
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- viii) Where developmental needs have been identified it is the responsibility of the [training officer] to ensure that appropriate opportunities are provided taking account of available resources.

See H of Appraisal Standards on page 11.

J Administration of the scheme

- i) The [tribunal appraisal administrator] shall manage the administration of the appraisal scheme by:
- Identifying an appraiser for a member.
 - Providing contact details for appraiser and appraisee.
 - Agreeing the appraisal date with the appraiser.
 - Notifying the appraisee and the listing officer.
 - Distributing the self-assessment forms [electronically].
 - Liaising with the listing officer to ensure that the member has an appropriate list for the appraisal day.
 - Providing information about training events attended by the member since appointment or the last appraisal.
 - Providing copies of [two/three] recent decisions (statement of reasons) written by a tribunal judge.
 - Providing the most recent previous appraisal and any self-development plan.
 - [Providing the statistical information on sitting, appeals, cancellations and adjournments to the appraiser.]
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- ii) The [tribunal appraisal administrator] shall endeavour to ensure that the judge/member is not appraised by the same appraiser on successive occasions.
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- iii) The [tribunal appraisal administrator] [judge with relevant responsibilities] shall, upon receipt of the completed appraisal and self-assessment forms, forward requests for further training to the [training officer].
-
- iv) The [tribunal appraisal administrator] must provide a copy of the completed appraisal to the judge/member [and enter the relevant information into the tribunal database].

See J of Appraisal Standards on page 13.

K Use of the appraisal information

- i) While the specific content of an individual appraisal is confidential as between the appraiser and the judge/member, it will be necessary for the [tribunal appraisal administrator] [judge to whom relevant responsibilities have been delegated] to inform the [training officer], in confidence, of any training needs that have been identified in a self-development plan.

- ii) The [President] will have access to individual appraisal records, including annual self-assessment forms, in order to provide references and for consideration for advancement/ticketing.

- iii) The [President] may use the appraisal information in the database for purpose of compiling the tribunal Annual Report and to fulfil the objectives of the appraisal scheme as set out in B ii) above.

See K of Appraisal Standards on page 14.

APPRAISER COMPETENCES IN TRIBUNALS

A Personal qualities and responsibilities

Competence	Performance indicator
Is able to demonstrate capability as an appraiser in the skills and qualities to be appraised.	<ul style="list-style-type: none"> • Shows high level of competence at own appraisal. • Is up to date with the practice, legal framework and procedure of the appropriate tribunal.
Maintains confidentiality.	<ul style="list-style-type: none"> • Does not discuss appraisal outside the context of the appraisal process.
Maintains judicial independence and integrity.	<ul style="list-style-type: none"> • Is objective, open-minded and inspires respect and confidence. • Behaves in a measured, calm and non-confrontational manner. • Is able to maintain a balance between commenting on skills and conduct displayed and the necessity to maintain impartiality regarding the decision.
Exhibits professionalism and shows commitment by demonstrating high standards of public service.	<ul style="list-style-type: none"> • Shows an ability and willingness to learn and develop professionally. • Complies with the training requirements for appraisers of the tribunal. • Is willing to undertake the regular appraisal of colleagues.
Is aware of and respects diversity in all its forms. Such diversity may be related, although not exclusively, to gender, race, religious beliefs and customs, age, disability, mental capacity, sexual orientation, social or economic status, marital or civil partnership status and lifestyle.	<ul style="list-style-type: none"> • Takes account of all factors that may undermine the fair treatment of the appraisee. • Is aware of personal impact he/she may have on others. • Identifies, acknowledges and sets aside personal prejudices. • Recognises and discloses any potential conflict of interest.

Continued page 27

A Personal qualities and responsibilities (cont.)

Competence	Performance indicator
Facilitates the full participation of the appraisee to ensure fair treatment and a successful outcome of the appraisal process.	<ul style="list-style-type: none"> • Treats everyone with respect and in a consistent manner. • Ensures the requirements of those with special needs are met.
Communicates effectively.	<ul style="list-style-type: none"> • Asks clear, concise, relevant and understandable questions. • Avoids inappropriate comments. • Employs active listening skills. • Uses appropriate body language. • Regularly checks the understanding of the appraisee.
Is committed to the appraisal process.	<ul style="list-style-type: none"> • Is willing to attend regular appraisers' meetings to review the jurisdiction's scheme and share experiences. • Is committed to the principles of continuous personal development. • Is willing to be appraised as an appraiser.
Makes effective use of supporting computing facilities and appropriate software.	<ul style="list-style-type: none"> • Uses Word and e-mail as required.

B Pre-appraisal preparation

Competence	Performance indicator
Understands and is able to describe the jurisdiction's appraisal scheme accurately and the competence-based approach to appraisal.	<ul style="list-style-type: none"> • Ensures that the appraisee is familiar with the scheme and that he/she has received all necessary paperwork and knows what to expect.
Is properly prepared for every appraisal.	<ul style="list-style-type: none"> • Contacts appraisee in advance. • Agrees appraisal date with appraisee and administration including the time of any pre- and post-hearing meetings on the day of the appraisal. • Obtains from appraisee and administration, as appropriate, self-appraisal form, previous decisions, most recent appraisal report and any other relevant information and documents. • Arrives punctually on the appraisal day.
Identifies from written material key areas for discussion during appraisal.	<ul style="list-style-type: none"> • Reviews supporting evidence in advance of appraisal day.

C The appraisal day

Competence	Performance indicator
Effectively communicates process of appraisal and roles of appraiser and appraisee.	<ul style="list-style-type: none"> • Establishes rapport quickly to build a purposeful relationship. • Holds any necessary confidential pre-hearing meeting to discuss the process on the day of the appraisal including the need for time for a post-hearing discussion. • Reminds appraisee of the competence-based approach for all members of the tribunal. • Ensures appraisee has the opportunity to ask questions and/or to identify any areas of concern that he/she would wish to be addressed. • Explains that the appraiser will take no part in the hearing, the decision-making or the reason-writing process. • Discusses with appraisee introductions regarding the role of the appraiser and note-taking. • Agrees seating arrangements.
Is able to accurately observe behaviour in the context of its relevance to the JSB's <i>Tribunal Competences – Qualities and Abilities in Action</i> .	<ul style="list-style-type: none"> • Listens and observes carefully from a discrete position which does not interfere with the proceedings or decision-making process. • Takes accurate evidence-based notes of appraisee's behaviour during the pre-hearing meeting, the proceedings and the structured decision-making process.
Accurately assesses performance against all the competences demonstrated.	<ul style="list-style-type: none"> • Records specific examples in support of assessment. • Identifies competences demonstrated with reference to evidence from notes. • Identifies competences which could not be assessed. • Identifies unmet competences with evidence from notes. • Makes an evidence-based assessment with reference to the agreed standards.

D Immediate post-appraisal feedback and discussion

Competence	Performance indicator
Prepares for post-appraisal discussion.	<ul style="list-style-type: none"> • Ensures private location for discussion. • Identifies key points to be discussed and outcome to be achieved from the appraisal. • Gives significant issues greater priority than minor ones. • Allows appraisee time to prepare between hearing and discussion.
Conducts the discussion in a fair and consistent manner to build consensus and enhance understanding of the appraisal process.	<ul style="list-style-type: none"> • Maintains relaxed, constructive and supportive environment focused on the task in hand. • Controls the overall pace and direction. • Encourages appraisee to contribute actively to the discussion by assessing his/her own performance. • Listens actively. • Questions appropriately. • Uses clear and appropriate language. • Observes and responds to non-verbal messages. • Shows respect for and empathy with the appraisee. • Invites appraisee's views on observation, self-assessment form and other evidence.
Maintains objectivity throughout discussion.	<ul style="list-style-type: none"> • Remains calm. • Supports observations by specific relevant examples. • Shares ideas and information without giving advice. • Is flexible and accepting of alternative approaches within the remit.
Demonstrates ability to give timely and constructive feedback.	<ul style="list-style-type: none"> • Focuses on evidence and observed behaviour. • Balances the negative and the positive. • Addresses difficult issues with the appraisee. • Bases evaluations against the competences solely on evidence and observations. • Discusses unobserved competences. • Identifies in partnership with the appraisee any learning needs arising from both observed and unobserved competences. • Explores with the appraisee his/her level of knowledge and understanding. • Listens to and discusses areas of disagreements. • Challenges constructively. • Summarises the discussion in clear unambiguous language.

E Reaching agreement and report-writing

Competence	Performance indicator
<p>Demonstrates the ability to summarise fairly and accurately in written form the key outcomes from the observation and discussion.</p>	<ul style="list-style-type: none"> • Records examples of competences demonstrated. • Records examples of competences not observed or met. • Records any consequent discussion. • Records details of any outstanding disagreement from the perspective of both the appraiser and the appraisee. • Records details of training needs identified and agreed. • Discusses possible ways of meeting those needs. • Discusses possible resolutions including the preparation of a practical self-development plan if appropriate.
<p>Completes all paperwork promptly.</p>	<ul style="list-style-type: none"> • Sends report to appraisee for appraisee to make any comments and sign, in line with agreed protocol for the tribunal, if not completed on appraisal day. • Explains to appraisee that, if no agreement is reached, the appraisee may add his/her comments and sign them. • Forwards all documentation appropriate to the tribunal scheme to the administration.

Ongoing development

The JSB hopes that you will contribute to the ongoing development of these Appraisal Standards and Competences, and welcomes your comments.

ANNEX A

The tribunal appraisal self-assessment form

Name.....

Jurisdiction

Date of appointment.....

Appraiser.....

Date of appraisal

Date of previous appraisal in this jurisdiction.....

Other tribunal appointment(s) and dates of appointment.....

.....

Dates of most recent appraisals in other jurisdictions

In order that you may prepare for the appraisal visit and to enable an effective discussion with your appraiser, please complete the details above and the following form.

(Please make additional comments on the back of this form.)

- 1 What were the objectives identified, if any, in your last appraisal in this jurisdiction? In your view have these been achieved?

2 What training in this, or any another jurisdiction, have you attended since your last appraisal in this tribunal? Has the training assisted you in your role as a member of the tribunal?

3 With reference to the JSB's *Tribunal Competences – Qualities and Abilities in Action* and any relevant jurisdiction-specific competences, what do you consider to be the most effective aspects of your performance in the tribunal?

4 With reference to the JSB's *Tribunal Competences – Qualities and Abilities in Action* and any relevant jurisdiction-specific competences, what aspects of your performance in the tribunal would most benefit from further development?

5 Are there any administrative or procedural matters that could be changed to assist in the improvement of your performance in this jurisdiction?

6 Is there any training or additional support that you feel would enhance your performance in this jurisdiction?

7 Do you have any special needs that could be better met by the tribunal?

8 Are there any additional comments that you would like to make or issues that you would like to discuss in the appraisal?

Signed..... Date.....

ANNEX B

The judge/member tribunal appraisal report form

Name.....

Jurisdiction.....

Date of appointment.....

Appraiser.....

Date of appraisal.....

Date of previous appraisal in this jurisdiction.....

Other jurisdiction(s).....

Dates of most recent appraisals in other jurisdictions.....

(Please make additional comments on the back of this form.)

Summary of type of cases heard.

Summary of decisions reviewed by appraiser, including, where relevant, comment on decision-writing skills.

Competences

Complete each box with reference to the specific competences as set out in the JSB's *Tribunal Competences – Qualities and Abilities in Action* and any other competences specific to this jurisdiction or to the particular role of the judge/member.

- Identify clearly the evidence that any comment is based upon.
- Identify competences that cannot be assessed.
- Identify the appraisee's strengths.
- Identify areas that could benefit from development.

(Please make additional comments on the back of this form.)

A Knowledge and values.

B Communication.

C Conduct of cases.

D Evidence.

E Decision-making.

F Jurisdiction or member-specific competences.

G Diversity and fair treatment.

Appraiser – are there any further matters upon which you consider it relevant to comment?

Appraisee – please say whether you agree with the appraiser’s comments.

Appraisee – please add any observations that you may have about the appraisal process and your appraiser.

Further objectives for appraisee’s self-development.

Appraisal outcome

Signed (appraiser) Date

Signed (appraisee) Date



ANNEX C

Tribunal judge/member self-development plan

Name.....

Jurisdiction

Date of appointment.....

Appraiser.....

Date of appraisal

Date of previous appraisal in this jurisdiction.....

Other jurisdiction(s).....

Dates of most recent appraisals in other jurisdictions

(Please make additional comments on the back of this form.)

Objectives for appraisee's self-development:

-
-
-

Aspect of performance that would benefit from being addressed.

Competence(s)/knowledge/skill to be developed.

Suggested learning activities

Training.

Sitting with experienced judge/member.

Guidance from mentor to support development.

Anything else.

Further appraisal recommended in months/years.

Any further comments from appraiser.

Any further observations from judge/member.

Signed (appraiser) Date.....

Signed (appraisee) Date.....

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