



Could you be an employment judge? Your employment tribunal needs you!

JUDGE BRIAN DOYLE, President, Employment Tribunals (England & Wales)

This summer, the Judicial Appointments Commission will launch an exercise to recruit additional salaried employment judges in England and Wales. For the first time, these salaried appointments will be open to eligible candidates with or without previous judicial experience.

We have not recruited fee-paid or salaried employment judges for more than five years. While a future fee-paid recruitment exercise is hoped for, the salaried competition is an excellent and unprecedented opportunity to consider a career in the employment judiciary. Could you be an employment judge?

Background

The background will be well known to this readership. The introduction of employment tribunal fees in July 2013 led to a two-thirds fall in caseload. Some employment judges were deployed or cross-assigned for part of their time to the county court or other tribunals. A business case could not be made to replenish the ranks of salaried judges who were promoted or retired.

The caseload has now returned – almost doubling with a 90% increase – since the abolition of fees as a result of the Supreme Court's decision in *Unison* last July. There is an outstanding caseload. We are also concerned to be able to maintain, if not improve, employment tribunal performance.

There are 54 full-time equivalent (FTE) vacancies across the 10 employment tribunal regions in England and Wales, although not at all the principal hearing centres. Salaried and fee-paid employment judges have recently been appointed in Scotland and the present exercise does not apply in that jurisdiction.

Salaried part-time working opportunities will be available at between 50% and 90% of the FTE, working five-day weeks in blocks of four weeks or more. The employment tribunal has always been in the vanguard of encouraging colleagues with caring and other responsibilities, such that term-time working, for example, has long been an attractive proposition. We also want to further improve the diversity profile of the tribunal.

Previous judicial experience – or none

Recruiting such a large number of salaried judges in one go is a tall order. In the past, we would have expected many of the existing fee-paid employment judges to step up for appointment and many will do so now. I encourage them to apply. However, their numbers have also reduced during the past five years. Many have changed their judicial and professional priorities in the face of falling opportunities to sit in the employment tribunal while fees were in place. We are not confident that we are fishing in a pool that is large enough to produce a shortlist of about 120 candidates for the final stage of selection.

Taking our cue from the 2017 exercise to recruit generic salaried judges to the First-tier Tribunal, we have decided to open the present exercise to otherwise appointable candidates who do not have previous judicial experience. We recognise, in particular, that there is a lost generation of lawyers who would have been interested in a judicial career in the employment tribunal, but for whom a fee-paid appointment as an employment judge has not been available in recent years.

Could it be you?

I want to do everything I can to encourage experienced lawyers to consider this opportunity to begin a judicial career.

You might be a relatively senior solicitor looking for new challenges. You could be a partner who has seen and done it all and who wants to give something back to the system. Perhaps you are a 'senior junior' at the Bar (or a silk) for whom the judicial calling holds attractions, but not as a generalist judge in the courts. Maybe you are a Fellow of the Chartered Institute of Legal Executives ready to make the transition to a judicial career. Possibly you are a professional support lawyer or legal academic, otherwise professionally qualified, ready to make a contribution to a specialist tribunal.

Could you be an employment judge? Your employment tribunal needs you!

'the selection process can be a bit of a mystery if you have not experienced it before or if you have not done your homework'

The Judicial Appointments Commission (JAC) website will provide employment tribunal-specific information when the exercise goes live this summer. It already contains a wealth of general information about the judicial appointments process that you can access now. Are you eligible? Are you ready? What do you need to know about the competencies framework? What tips are there for preparing for application? Can I shadow an employment judge to see what the job entails?

You will also find some very helpful case studies of judges who already sit in the courts and tribunals, including those of a fee-paid employment judge (Hazel Oliver) and two salaried employment judges, Joanna Wade and Sherrilyn Warren (<https://jac.judiciary.gov.uk>).

Elsewhere, Adenike Balogun talks about her experience as a salaried part-time employment judge and HH Judge Mary Stacey speaks of her promotion from employment judge to circuit judge – one of several employment judges who have recently taken that career path (www.judiciary.gov.uk).

The JAC process

Essential and superb information is provided by the JAC about how to apply for judicial appointment. You will need to create a JAC account. It is a good idea to do that in advance. This is when you can notify the JAC of any reasonable adjustments that you might need. Then it is worth looking at how to complete your online application when the time comes and what is expected of your self-assessment. Here too you will find very important information about the good character requirements and independent assessments (what used to be called references).

Evidence and examples

A good reason to think about the application process now is that it can take several hours to complete the application. You will need to have thought very carefully about the examples you will need to be able to complete the self-assessment in a way that does you justice.

You will be assessed by the information you provide in your self-assessment in the context of the competency framework. That framework covers: exercising judgement; assimilating and clarifying information; possessing and building knowledge; working and communicating with others; and managing work efficiently. This is an evidence-based process and not one that can be satisfied by assertion alone.

Selection

The selection process can be a bit of a mystery if you have not experienced it before or if you have not done your homework in preparation. Nevertheless, the JAC furnishes you with plenty of information about how the initial field of applicants is shortlisted. It seeks to provide sufficient candidates for the selection days (usually in a ratio of two to one) so as to produce the right number of recommendations for appointments to the available posts.

Before you take the qualifying test it is well to know how the online assessments work and what feedback you might expect. There is also a wealth of information on how the selection day is conducted, what selection methods are used, how selection decisions are reached and what happens once a recommendation for appointment is made.

Is it for me?

But why think about applying at all? Every judicial office-holder will have a different story to tell. As employment judge Joanna Wade puts it: 'I became a judge after spending 15 years as a solicitor. A combination of career enhancement, liking to be involved in administering justice and conflict resolution and a desire to do a good job led me to apply. Also, solicitors tend to be very good at putting people at their ease and understanding what they are saying, which makes them excellent judges. Good examples of transferable skills are being a successful manager in a firm or a mediator.'

On the JAC website and the public-facing Judiciary website you will find stories of why judges at all levels first contemplated a judicial career and what satisfies them about it. These accounts may well resonate with you and correspond to your career path so far (www.judiciary.gov.uk).

Pay and reward

Only you can decide whether the judicial salary and judicial pension scheme are attractive rewards for office. Employment judges are part of Judicial Salary Group 7, alongside district judges and First-tier Tribunal judges. The existing salary is £108,171 – with a combined salary lead and allowance totalling £4,000 for those who sit in London. Judicial salaries and the salary structure generally are currently under review by the Senior Salaries Review Body (SSRB). Information about the judicial pension scheme will be provided as part of the information pack when the exercise opens.

Could you be an employment judge? Your employment tribunal needs you!

'the idea of "one judiciary" with many points of entry and preferment is taking hold'

For many, the prospect of regular hours and predictable workload is particularly appealing. Employment judges work 220 days a year (pro rata for salaried part-time appointments). That allows for six weeks' annual leave, the usual eight days' bank holidays and 2.5 privilege days. The judges are profiled to sit on hearings for the majority of their time, with days also allocated for decision writing, duty work, training, appeals, complaints and other judicial duties.

My expectation is that judges will keep reasonable business hours and, with appropriate management by the regional leadership judges, should be given adequate time for decision-writing and so on. If judges work in the evenings or at weekends, then they do so as a matter of personal working preference. It is neither encouraged nor expected, which might strike some as a welcome change.

Training and support

Successful candidates will be invited to a residential induction course of three days/two nights, with some preparation beforehand. We expect this to be part of a broad and innovative programme of digital learning, mentoring and support that we will provide to all new appointees, regardless of whether they have sat in the employment tribunal before.

For those with no previous judicial experience, we will have in place the means to bring you up to full speed within a few months of taking office. Thereafter, you will benefit from the employment tribunal's regional and national training programme and a cross-jurisdictional suite of courses provided directly by the Judicial College.

Career development

Traditionally, career development and promotion opportunities in the employment tribunal were very narrowly defined. Opportunities for promotion to regional employment judge or President were few and far between. Yet now, the idea of 'one judiciary' with many points of entry and preferment is taking hold.

Many salaried employment judges sit in other jurisdictions as part of judicial deployment initiatives. Some hold other judicial appointments – such as being recorders or deputy chairs of the Central Arbitration Committee – and are released to sit in those jurisdictions for an agreed number of days. A number of employment judges have enjoyed recent success in appointments and promotions to the courts and other tribunals.

Several employment judges have delegated responsibilities – such as for training, IT, reform, alternative dispute resolution etc – that give them a variety of work and added job satisfaction. Still others act as diversity and community relations judges engaged in outreach activities. But if you just want to be a judge and do the day job well, that is okay too.

Your employment tribunal needs you!

Don't worry. If the JAC does not think that you have what it takes to make the transition from client-focused legal practitioner to objective and independent employment judge, it will not recommend you for appointment. We have no interest in appointing someone not suited to the role and who will quickly become disenchanted with judicial life. But if you think, or even suspect that this might be the career change for you, and that this is the auspicious moment to make it, I strongly encourage you to give it a go. This is a challenging and satisfying calling. Your employment tribunal needs you!

KEY:

Unison

R. (Unison) v Lord Chancellor
[2017] UKSC 51

JAC

Judicial Appointments Commission