

Good Character Guidance



Introduction

1. The Judicial Appointments Commission (JAC) is required under section 63(3) of the Constitutional Reform Act 2005 to select people for appointment who are of “good character”. This guidance will help you to decide whether there is anything in your past conduct, or present circumstances (for example business connections) which would affect your application for judicial appointment. You are required to declare all matters whether or not these have been declared in a previous application. This is a continuing responsibility throughout the process for any matter that may arise up to the point of appointment. The principles the JAC will adopt in determining good character are:
 - the overriding need to maintain public confidence in the standards of the judiciary; and
 - that public confidence will only be maintained if judicial office holders and those who aspire to such office maintain the highest standards of behaviour in their professional, public and private lives.
2. The JAC will take into account the whole picture of a candidate’s character when deciding whether that person is suitable to hold judicial office. The JAC will not reject a candidate on the basis of trivial issues.

Eligibility for appointment to judicial office on character grounds

3. This guidance deals with issues, which may determine whether you are eligible for appointment to judicial office on character grounds. This decision will usually be taken at the start of the selection exercise by the JAC. If the JAC considers that you do not meet the high standards required of judicial office holders your application will not be allowed to proceed.

Criminal convictions

4. It is likely that any criminal conviction, which has resulted in the imposition of a term of imprisonment, will disqualify you for appointment to judicial office.
5. A criminal conviction, which has not led to a term of imprisonment, is also likely to disqualify you from appointment to judicial office. However, the JAC will apply the following guidelines:
 - offences may be disregarded after 20 years, if there has been no repetition of the conduct; and
 - it may disregard minor convictions after 10 years.

Cautions for criminal offences

6. A formal caution is an admission of guilt by the person concerned. Therefore, the JAC will treat a caution in the same way as a conviction.

Motoring offences

7. Convictions for motoring offences (other than parking offences) should be declared in the section relating to criminal convictions.
8. The JAC treats a conviction for driving whilst under the influence of alcohol or drugs very seriously and such a conviction would disqualify you from consideration for judicial appointment for anything up to 20 years from the date of conviction depending on the gravity of the offence.
9. Any motoring conviction leading to a term of imprisonment (for example dangerous driving) will be treated in the same way as any other criminal conviction, which has led to imprisonment.
10. A disqualification from driving, other than as in paragraph 8, will lead to a disqualification from consideration for appointment to judicial office for up to three years after the licence has been regained. Other motoring offences will be considered on the circumstances of the case.

Fixed penalty

11. Any offence leading to a fixed penalty (including moving motoring offences) should be declared and may be disregarded at the discretion of the JAC.

Insolvency and bankruptcy

12. The JAC will consider the appointment to judicial office of an undischarged bankrupt or someone who has an outstanding Individual Voluntary Arrangement on the circumstances of the case. You should provide full details of the circumstances with your application.

VAT and tax

13. The JAC will expect you to maintain your VAT and tax affairs in good order. Occasional administrative penalties for late payments will not disqualify you from selection. However, county court judgements, or actions taken in the courts to

pursue you for payment, may disqualify you for appointment for a period, which will depend on the specific circumstances of the case.

14. Where action is taken against your company or firm rather than you as an individual, the JAC may take this into account depending upon the degree of personal culpability involved.

Professional negligence

15. The JAC will consider the specific detail of each case of a finding of professional negligence. It is not possible to offer detailed advice on this matter. Factors the JAC will consider will include the degree of personal culpability involved. Professional negligence matters against your partners or employees need not be declared unless they involve you personally or someone under your direct supervision.

Disciplinary action

16. The JAC will consider the specific details of each case of a professional body upholding a disciplinary complaint against you personally or someone under your direct supervision. Other matters in respect of which no findings have been made against you personally and which relate solely to your partners or employees need not be declared. It is not possible to offer detailed advice on this matter. Factors the JAC will consider will include:
 - a recognition that some people, by the nature of their work, are likely to receive a greater number of complaints than others (for example solicitors working in criminal or mental health practices);
 - the number of complaints upheld;
 - the nature and seriousness of the complaint(s);
 - the action taken by the professional body;
 - your personal culpability;
 - whether it is a service finding i.e. a finding of inadequate professional services or a finding of misconduct; and
 - in the case of solicitor applicants whether it is solely a service finding by the Legal Complaints Service (or formerly, the Law Society) or a finding of misconduct by the Solicitors Regulation Authority (or formerly, the Law Society).
17. The Commission will generally view misconduct findings more seriously than findings which are related solely to Inadequate Professional Service, but both should be declared.
18. If you are debarred from practice in your profession, you will not be considered for judicial appointment until you have been reinstated and have a track record of five years without further incident.

Further information

19. You are also asked on the application form whether there is anything you want to bring to the attention of the JAC. Whilst it is not possible to be definite about what could be relevant here, examples might be issues of controversy in which you are involved or the conduct of close relatives or business partners.
20. You should note that the Rehabilitation of Offenders Act does not apply to judicial appointments and all convictions and cautions should be disclosed, even if spent under the Act. Checks with the police, professional bodies and HM Revenue and Customs are undertaken prior to appointment. The failure to declare on the application form information later disclosed by the agencies may be considered to be attempted deception, which would rule out your appointment.

Use of character information in the assessment of qualities

21. The JAC considers that information supplied in answer to the “character” questions on the application form may well provide evidence relevant to the qualities the JAC is looking for in its recruitment exercises. Therefore the selection panels may use the information when considering how well you meet the qualities as advertised for the office in question.

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