

Good Character Guidance - 2011

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 that would affect your application for judicial appointment. You are required to declare:
 - **all matters as they affect you;**
 - **all matters whether or not these have been declared in a previous application;**
 - **all matters whether or not they have been declared to another body; and**
 - **all matters even if you have already been selected for judicial office or are/have been a judicial office holder, including matters that may have occurred outside the United Kingdom.**
2. Failure to disclose any material matter may have an effect on your declaration. There is a continuing responsibility to disclose any relevant matter that may arise up to the date of appointment
3. The principles the JAC will adopt in determining good character are based on:
 - the overriding need to maintain public confidence in the standards of the judiciary; and
 - the fact 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.
4. The principles of this guidance apply equally to legal professionals, existing judicial office holders and lay members of the public who apply for a judicial office.
5. You should note that the Rehabilitation of Offenders Act (1974) does not apply to recommendations for judicial appointments and all convictions and cautions should be disclosed, even if spent under the Act.
6. The JAC will take into account the whole picture of a candidate’s character when deciding whether to recommend a candidate to the Lord Chancellor for appointment to a judicial office. The JAC will not reject a candidate on the basis of issues it considers trivial – but all potentially relevant issues must be declared.

Suitability for appointment to judicial office on character grounds

7. This guidance deals with issues that are relevant to your suitability for appointment to judicial office on character grounds. The JAC makes an assessment of any character issues declared on the application form and character checks are made with professional checking bodies, for example the Association of Chief Police Officers Criminal Records Office, Her Majesty’s Revenue and Customs, the Insolvency Service and professional bodies, normally after the selection day stage of the selection process. 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.

8. You should ensure that you consider carefully this Good Character Guidance before completing your application form. You equally have a continuing duty to ensure the JAC is kept informed of all matters that might affect the acceptability of your application when judged against this Guidance after the completion of your application form and throughout the time that your application is being considered.
9. If you are successful in the selection process, the JAC will make its decision on your character before making any recommendation to the Lord Chancellor. It is in your own interest to ensure that your assessment is full and accurate. You must ensure that you provide full disclosure of any of the following issues in your application form and give due weight to any such disclosures in your own assessment of the suitability of your application.

Specific Considerations

Criminal convictions (other than motoring)

10. It is likely that any criminal conviction that has resulted in the imposition of a term of imprisonment will disqualify you from selection for judicial office.
11. A criminal conviction which has not led to a term of imprisonment is also likely to disqualify you from selection for judicial office. However, the JAC will normally apply the following criteria:
 - It may disregard minor convictions; and
 - depending upon their seriousness, may disregard other offences after 20 years, provided there have been no further offences.

Cautions for criminal offences

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

Motoring offences

13. Convictions for motoring offences (other than parking offences) should be declared in the section of the application form relating to criminal convictions.
14. The JAC treats a conviction for driving while under the influence of alcohol or drugs seriously and such a conviction would normally disqualify you from selection for judicial office for up to 20 years from the date of conviction depending on the gravity of the offence.
15. 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 that has led to imprisonment.
16. A disqualification from driving, other than as a result of offences in paragraphs 14 and 15, will normally lead to a disqualification from selection for up to 3 years after the licence has been regained.

Fixed penalty

17. Any offence leading to a fixed penalty (including moving traffic offences) should be declared and may be disregarded at the discretion of the JAC, although this may not be the case for repeated offences.

Insolvency and bankruptcy

18. Being an undischarged bankrupt or someone who has an outstanding Individual Voluntary Arrangement (IVA) or any other similar arrangement is likely to lead to disqualification. However, it will depend on the particular circumstances of the case. You should provide full details of the circumstances with your application. If you have been discharged from an IVA this will not disqualify you from selection, but must still be declared, as must previous or existing bankruptcies. You must also declare if you have been a director of a company that has become insolvent.

VAT and tax

19. The JAC considers it part of evidence of good character that your VAT and tax affairs are in good order. Occasional, as opposed to regular, administrative penalties for late payments will not normally disqualify you from selection. However, county court judgements, or actions taken in the courts to pursue you for payment, which you must describe, may disqualify you from selection for judicial office for a period that will depend on the specific circumstances of the case. Any penalty applied against you or your company or firm should be declared in your application form.
20. 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. You should supply sufficient details for the JAC to make this decision.

Professional negligence

21. The JAC will consider the specific detail of each case of a finding of professional negligence. We also recognise that some candidates, because of the nature of their practice, are more likely to face claims of professional negligence. You should report any action that has been brought against you or someone under your direct supervision. Factors the JAC will consider will include the degree of personal culpability involved. Professional negligence matters against your partners or other employees need only be declared if they involved you personally, directly or indirectly, or someone under your direct supervision.

Professional Complaints and Disciplinary action

22. 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 of the firm need not be declared. 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 those working in criminal or mental health practices);
 - the number of matters upheld;
 - the nature and seriousness of the matter(s);
 - the action taken by the professional body;
 - your personal culpability;
 - whether it is a service finding i.e. a finding of inadequate professional service or a finding of misconduct, including any finding of the Office of Legal Complaints or of the Legal Ombudsman;
 - in the case of solicitor applicants, whether it is solely a service finding by the Legal Ombudsman (or formerly, the Law Society) a finding of misconduct by the Solicitors Regulation Authority (or formerly, the Law Society) or a finding of the Solicitors' Disciplinary Tribunal.
23. The Commission will generally view misconduct findings more seriously than findings which relate solely to inadequate professional service, but both should be declared.
24. If you are disbarred from or struck off from practice in your profession, you will not be considered for selection for a judicial appointment until you have been reinstated and have practised for 5 years without further incident.
25. You must declare information about investigations that are still ongoing but where no determination has been made yet. If you are suspended from practice in your profession, you are unlikely to be considered for selection during your period of suspension.
26. If you have been removed from judicial office or professional practice on any grounds of misconduct then you will not be considered for selection.

Further information

27. You are also asked on the application form whether there is anything you want to bring to the attention of the JAC. While it is not possible to provide a definitive list of matters that could be relevant, examples might include issues of controversy in which you are involved, the conduct of close relatives or those with whom you have business connections.
28. The failure to declare on the application form information later disclosed by these agencies may rule out further consideration of your application.

29. Failure to disclose further information, upon request from JAC and to the timetable requested by the JAC, may also rule out further consideration of your application.
30. Finally, in addition to the categories covered above, you should consider if there is any factor or event, either currently or that has occurred in the past that might cast doubt, in the public eye on your suitability for judicial office or cause embarrassment to that office. If you consider that there might be such a factor or event, you should declare it, even if this has been declared in a previous application to the JAC.

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