

Good Character Guidance

Obligation to disclose

1. The Judicial Appointments Commission (JAC) takes very seriously its obligation under section 63(3) of the Constitutional Reform Act 2005 to select for appointment only those candidates who are of 'good character'. The JAC adopts a very wide interpretation of 'good character' so please read this guidance carefully. It will help you to decide whether there is anything in your past conduct, or present circumstances, that would affect your application for judicial appointment. For each new application, you should not assume any previous knowledge of relevant matters by the JAC. You are therefore required to declare in each application all relevant matters, whether or not:
 - these have been declared in a previous application or
 - they have been declared to another body or
 - you have already been selected for judicial office or are/have been a judicial office holder or
 - the incidents occurred outside the United Kingdom
2. **Failure to disclose any relevant matter is likely to have an adverse effect on your application. You have a continuing responsibility to disclose any relevant matter that may arise at any time before consideration of your application has ended.**
3. Where a time period for disclosure is specified in this guidance (for example, you must disclose current endorsements on a motor vehicle licence, which remain in place for four years), you must make the disclosure that is applicable on the date that you submit your application. The JAC will then use the date that it considers your application as the relevant date for making a decision in respect of these time-specific disclosures. This is usually a period within six months of you making your application. For example, if you have an endorsement that is three years and 11 months old at the time you make your application then you must disclose this, but if the JAC considers your application two months later it will consider this endorsement to have expired as it will be more than four years old.
4. More information is set out below about your obligation to disclose. Please read it carefully.

Background

5. The principles the JAC adopts 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

6. 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.
7. Following legislative change in August 2016, applications to the JAC are covered by the Exceptions Order to the Rehabilitation of Offenders Act 1974.¹ This means that no spent convictions or convictions are protected from disclosure, and you must disclose to the JAC all criminal convictions or cautions that you have ever received, regardless of whether they are spent or unspent.
8. The JAC will take into account the whole picture of a candidate's character when deciding whether to recommend a candidate for judicial appointment. 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 judicial appointment on character grounds

9. The JAC makes an assessment of all (if any) character issues declared on your application form. It is in your own interests to ensure that the information supplied on your application form is detailed and accurate.
10. Failure to make full and accurate disclosure on your application form may in itself be treated by the JAC as evidence of your unsuitability for judicial appointment.
11. In addition to considering the character issues declared on your application form, the JAC makes character checks with various bodies including, but not limited to, the Association of Chief Police Officers Criminal Records Office, HM Revenue & Customs, The Insolvency Service and professional bodies.
12. **Remember your continuing duty, throughout the time that your application is being considered, to inform the JAC of all relevant matters that might affect the acceptability of your application when considered against this guidance.**
13. The JAC will make its decision on your character before making any recommendation for judicial appointment. 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.

Specific considerations

Criminal offences

Criminal convictions and cautions (other than motoring offences)

14. Judicial appointments are covered by the Exceptions Order to the Rehabilitation of Offenders Act 1974 and spent convictions and cautions are not protected from disclosure for these purposes. The JAC takes all criminal convictions and cautions seriously, and you must disclose to the JAC all criminal convictions and cautions you have ever received regardless of whether they are spent or unspent.

¹ The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended, most recently by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2016.

15. A criminal conviction or caution may prevent your appointment. However, the JAC recognises the rehabilitative intent of the Rehabilitation of Offenders Act 1974, and may at its discretion determine that a conviction or caution should not prevent your application from proceeding. It is more likely to allow your application to proceed where it considers that the offences are historical and less serious, and do not cast doubt on your currently suitability for appointment. It is less likely to allow your application to proceed if you have committed offences that are recent or of a more serious nature, or if the offences involve fraud or dishonesty. If you have committed an offence that has led to the imposition of a term of imprisonment it is unlikely that the JAC will allow your application to proceed.
16. As a general guide, the JAC may consider you suitable for appointment following a period of six years after you have received a caution, or a period of 11 years following a conviction. However, this is a general guide only and the JAC will make each decision on a case by case basis. In deciding whether or not your application can proceed, factors the JAC will take into account include:
- the nature, number and date(s) of the offence(s)
 - your age on the date the offence(s) were committed
 - the circumstances and seriousness of the offence(s)
 - the sentence imposed
 - the time that has elapsed since the conviction or caution

Fixed penalties

17. You must declare any fixed penalty received in the last four years (including moving traffic offences). In considering whether a fixed penalty should prevent you from being appointed, the JAC will consider factors such as the nature, number and date(s) of the incident(s) involved. Please see below for further detail in respect of motoring offences.

Motoring offences

18. Convictions for motoring offences (other than parking offences) must be declared in the section of the application form relating to criminal convictions. In general any conviction for a motoring offence will be treated in the same way as any other criminal conviction.
19. The JAC treats offences related to driving under the influence of alcohol or drugs seriously and a conviction for any such offence will mean that it is unlikely that the JAC will allow your application to proceed, subject to the factors listed at paragraph 16.
20. Any disqualification from driving must be declared. If you have only regained your licence following disqualification within the last four years it is unlikely that the JAC will allow your application to proceed.
21. You must declare any other endorsement currently remaining on your licence, which in practice will mean any endorsement ordered within the last four years. This will include endorsements resulting from exceeding the speed limit or using a hand-held device while driving, both of which the JAC regards as serious.

22. It is unlikely that your application will be allowed to proceed where:
- there are six or more penalty points currently endorsed on your licence as a result of a single incident or
 - the total number of points currently endorsed on your licence exceeds six

If there are fewer than seven points currently endorsed on your licence, and no single incident has resulted in a penalty of six points, the JAC will be likely to allow your application to proceed, but in coming to a decision it will take into account the nature of the offence(s) involved.

23. You need not declare any speeding offences dealt with by way of an informal warning or a speed awareness course.

Current investigations

24. You must declare information about any criminal charges you are subject to, or any ongoing criminal investigation into your conduct. Depending on the particular circumstances of the investigation, your application may be allowed to proceed. However, it is unlikely that you will be recommended for judicial appointment until the outcome of the investigation is known.

Financial matters

Insolvency and debt

25. Being an undischarged bankrupt or someone who has an outstanding Individual Voluntary Arrangement (IVA) or any other similar arrangement will normally prevent you from being selected for judicial appointment. If you are otherwise unable to meet your financial obligations such that you are, in effect, insolvent, this may also prevent you from being selected for judicial appointment. However, the JAC will consider each case on its merits, including factors such as the length of time the debt has existed and whether or not it has been substantially reduced. You must provide full details of the circumstances with your application.
26. If you have been discharged from bankruptcy, the JAC is unlikely to allow your application for judicial appointment to proceed for a period of at least five years from the date of discharge.
27. Depending on the circumstances, you may be prevented from being selected for judicial appointment if you have been:
- a. discharged from an IVA or
 - b. sued to judgment for any debt or
 - c. a director of a company that has become insolvent

The JAC will consider each case on its merits so you must provide full details of the circumstances with your application.

VAT and tax

28. The JAC recognises that the tax affairs of some individuals (for example, self-employed professionals) are more complex than others, and these individuals may at times face greater difficulties in meeting their tax obligations. However, the JAC considers that good character requires that your VAT and other tax affairs are in good order. As a minimum, this means that you are up to date with your tax payments, or have an appropriate agreement in place with HMRC to ensure payment is made, and a demonstrated record of meeting these payments.

29. Any VAT or tax penalty applied against you, or against your company or firm for a matter for which you had a personal responsibility, must be declared in your application form. Occasional administrative penalties for late returns or payments will not normally prevent you from being selected but full details must be provided, preferably supported by documentary evidence. The JAC will consider each case on its merits.
30. Repeated late returns or payments, or county court judgments or actions taken in the courts to pursue you for payment, may prevent you being selected for judicial appointment for a period that will depend on the specific circumstances of the case. The JAC will consider each case on its merits, including factors such as the level of arrears accrued, whether an agreement to pay was or has been entered into and complied with to date, and any mitigating circumstances.
31. Where action is taken against your company or firm rather than you as an individual, the JAC may in its discretion take this into account depending upon the degree of personal culpability involved. You must supply sufficient details for the JAC to make this decision.

Professional conduct

33. This section applies to all professional conduct you have been engaged in, regardless of whether it was undertaken on a paid or voluntary basis. This includes (but is not necessarily limited to):
 - regulated professional conduct – for example work as a lawyer, doctor, accountant, chartered surveyor etc
 - judicial conduct – including all salaried or fee-paid work in any court or tribunal, and any voluntary sitting as a tribunal member, lay magistrate etc
 - conduct in the course of any other employment, whether or not this is as part of a regulated profession
 - conduct in the course of any voluntary work you have undertaken, for example as a board member of a charity

The JAC takes a broad view of the matters covered by 'professional conduct' and, if in doubt, you should disclose any matter that might be of relevance to an assessment of your character.

Professional negligence and other legal action

34. The JAC will consider on its merits each case of a finding against you of professional negligence, so you must provide full details on your application form. The JAC recognises that some candidates, because of the nature of their practice, are more likely to face claims of professional negligence (see further, paragraph 41).
35. You must disclose any action that has been brought against you or someone under your direct supervision. Professional negligence findings against your partners or other employees need only be declared if they involved you personally, directly or indirectly, or someone under your direct supervision.
36. You must also disclose any action for unfair or wrongful dismissal or discrimination, or any other adverse finding or settlement in civil proceedings against you, or against your company or firm in respect of a matter for which you had a personal responsibility.
37. In considering professional negligence and other legal action, the JAC will consider factors such as the degree of personal culpability involved, how long ago the events

took place, the nature of the claim and the outcome. The JAC recognises that there is a difference between isolated professional mistakes, and conduct which suggests a serious disregard for professional obligations. The latter is more likely to raise a concern as to your suitability for appointment.

Complaints and disciplinary action

38. You must disclose the circumstances if you have been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar.
39. If you have ever been removed from judicial office, you will not be considered for selection for a further judicial appointment. This applies equally if you retired or resigned under circumstances where you may otherwise have been removed from office.
40. The JAC will consider on its merits each case of a professional body upholding a complaint or disciplinary matter against you personally or someone under your direct supervision. Where no findings have been made against you personally, or where findings relate solely to your partners, or other members or employees of the firm, they need not be declared.
41. The JAC will consider factors such as:
 - 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 complaints or disciplinary matters upheld
 - the nature and seriousness of the complaint(s) or disciplinary matter(s)
 - the action (if any) taken by your or any other professional body
 - your personal culpability
 - whether it is a finding of misconduct, or a finding of inadequate professional service
42. The JAC will generally view misconduct findings more seriously than findings which relate solely to inadequate professional service, but both must be declared.
43. If you have been removed from professional practice on any grounds of misconduct then you will not be considered for selection.
44. If you have been removed from professional practice on any other grounds, you will not be prevented from being considered for selection for a judicial appointment once you have been reinstated and have resumed practising for five years without further incident. The JAC will consider each case on its merits, including factors such as the degree of personal culpability involved, how long ago the events took place and how long you have practised without further incident since reinstatement.
45. If you have been suspended from practice as a penalty, you will not be considered for selection during the period of suspension and for at least a year following the end of that period.
46. It is unlikely that the JAC will allow your application to proceed if there are conditions on your practising certificate.

Current investigations

47. You must declare information about any ongoing investigations, where no determination has yet been made. Depending on the particular circumstances of the

investigation, your application may be allowed to proceed. However, it is unlikely that you will be recommended for judicial appointment until the outcome of the investigation is known.

48. If you have been suspended from practising your profession pending further investigation or a tribunal hearing, it is unlikely that you will be considered suitable for selection during your period of suspension.

Further information to be disclosed

49. The application form asks whether there is anything else you want to bring to the attention of the JAC. While it is not possible to provide a definitive list of the matters that could be relevant, examples might include issues of controversy in which you have been involved, and the conduct of those with whom you have business connections.
50. Any failure to declare on the application form relevant information which later comes to light is likely to rule out further consideration of your application.
51. Failure to disclose information additional to that included on your application form, upon the request of the JAC and to the timetable requested by the JAC, may also rule out further consideration of your application.
52. 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, which might either cast doubt in the view of the public 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 must declare it, even if it has been declared in a previous application to the JAC.

Use of character information in the assessment of qualities

53. The JAC considers that information supplied in answer to the 'character' questions on your application form may provide evidence relevant to the qualities it is looking for in its selection exercises. Therefore the information may be used by the JAC when considering whether you have demonstrated the qualities as advertised for the role in question.