

Guidance on Good Character - Suitability and Integrity

The JAC takes its duty to make recommendations of persons who are reputed of good character to judicial office very seriously. Candidates should therefore read this guidance carefully before they apply.

Maintenance of public confidence in the judiciary is the overriding consideration in any recommendation made by the JAC. The principles the JAC adopts in determining good character are therefore based on this overriding consideration. 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.

The principles of this guidance apply equally to legal professionals, and existing judicial office holders applying for a judicial office, although some of the principles may by virtue of the inherent dissimilarities apply in a different manner.

The JAC will consider 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 minor – but it is fundamental that all potentially relevant issues must be declared, as the Committee will assess recurring themes in addition to isolated incidents.

A. SUITABILITY FOR JUDICIAL APPOINTMENT ON CHARACTER GROUNDS

1. The JAC makes an assessment of any character issues declared on your application form. To do so, the JAC will consider any relevant character issues by applying this guidance and their own discretion and judgement.
2. The JAC will always make its decision on your character prior to making any recommendation for judicial appointment. If the JAC is not satisfied that you meet the high standard required of judicial office holders, including if you have not provided in your application form or on request sufficient information for the JAC to be satisfied of the same, your application will not be allowed to proceed.
3. It is in your own interests to ensure that the information supplied on your application form is detailed, accurate and up to date.

4. Failure to make full and accurate disclosure during your application may in itself be treated by the JAC as evidence of your unsuitability for judicial appointment.
5. 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, all Government Departments and Agencies, regulatory bodies or other professional bodies, associations and organizations which it considers may provide insight into character trends and your integrity.
6. **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.**

B. CONVICTIONS AND CAUTIONS

7. As a general guide, the JAC may still consider you suitable for appointment following a period of 6 years after you have received a caution, or a period of 11 years following a previous 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: a. the nature, number and date(s) of the offence(s) b. your age on the date the offence(s) were committed c. the circumstances and seriousness of the offence(s) d. the sentence imposed e. the time that has elapsed since the conviction or caution

C. CURRENT INVESTIGATIONS

8. 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.

D. TAX AFFAIRS

9. Candidates are advised that, should their tax affairs be deemed not to be in order, this may prevent them from being recommended for judicial appointment, and they may be invited to

re-apply for a future competition once their overall circumstances improve.

E. PROFESSIONAL CONDUCT

10. 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
- judicial conduct
- conduct in the course of any other employment,

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.

F. PROFESSIONAL NEGLIGENCE AND OTHER LEGAL ACTION

11. 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.

12. The JAC recognizes that some candidates, because of the nature of their practice, are more likely to face claims of professional negligence (see further, paragraph 19).

13. You must disclose any professional negligence findings against your partners or other employees if they involved you personally, directly or indirectly, or someone under your direct supervision.

14. You must also disclose any action for unfair or wrongful dismissal or discrimination or harassment, or any other adverse finding or settlement in civil proceedings against you (including any settlement made with a non-disclosure clause (NDC) as the NDC cannot override the obligation to disclose), or against your company or firm in respect of a matter for which you had a personal responsibility.

15. 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 recognizes 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.

G. COMPLAINTS AND DISCIPLINARY ACTION

16. 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.

17. 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.

18. 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.

19. The JAC will consider factors such as:

- 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)
- b. the number of complaints or disciplinary matters upheld
- c. the nature and seriousness of the complaint(s) or disciplinary matter(s)
- d. the action (if any) taken by your or any other professional body
- e. your personal culpability
- f. whether it is a finding of misconduct, or a finding of inadequate professional service

20. The JAC will generally view misconduct findings more seriously than findings which relate solely to inadequate professional service, but both must be declared.

21. If you have been removed from professional practice on any grounds of misconduct then you will not be considered for selection.

22. 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 seven 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.
23. 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.
24. It is unlikely that the JAC will allow your application to proceed if there are conditions or limitations which have been placed on your ability to practice as an advocate.

H. CURRENT INVESTIGATIONS

25. 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. The JAC may contact you for an update on any ongoing investigation prior to consideration of your application.
26. If you have been suspended from practicing 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.

I. FURTHER INFORMATION TO BE DISCLOSED

Presence on social media or online networking sites

27. Other factors which the JAC may include in its consideration is misuse of social media or online networking sites, where you expressed views that may be perceived as pejorative under applicable law or which may be perceived as showing a bias on matters which the JAC may, in the particular circumstances, consider as impinging upon your impartiality and independence. It may also include a breach of the conditions of use of the social media channel or networking site where you were sanctioned.

Breaches of the Integrity Statement

28. The JAC is committed to ensuring the integrity of its selection process and material. Candidates are required throughout the selection process to confirm their commitment to maintaining confidentiality and any breaches may be referred to professional regulatory bodies or disqualification from current and future exercises.
29. If you have been the subject of such a referral or disqualification, you should declare the circumstances along with any sanction or penalty for consideration by the Committee.

J. OTHER MATTERS

30. 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 or have had in the last 5 years, business connections.
 31. The existence of confidentiality agreements (for example non-disclosure or compromise agreements) should not be relied upon by candidates as a reason preventing them from declaring a character issue. If necessary, appropriate releases or waivers of any confidentiality restrictions should be obtained.
 32. 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 as well as disciplinary action in the event that an appointment to judicial office has been made.
 33. 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.
 34. 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, or online such as on social media channels 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 competencies

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