

Good Character/ Bad Character

Suggested direction where evidence of good character has been led.

[Refer to evidence] This evidence is part of the evidence to be taken into account in deciding whether you are satisfied beyond reasonable doubt of his guilt. The influence that this evidence has on you is a matter for you. It is relevant in two respects.

The first is in considering whether a person with the kind of reputation sworn to by the witnesses would do the acts alleged by the prosecution.

The second is in considering the credibility of the defendant's evidence [and/or any exculpatory statements made out of court which are in evidence]. When considering his evidence, do you think that his general reputation adds weight to it?

Evidence of general reputation, like any other evidence, is simply part of the framework within which you reach your decision. You consider it in the context of the other evidence. How much weight you give it, in that context and using it for the purposes I have told you about, is a matter for you.

Suggested direction where evidence has been given of the defendant's good character, evidence in rebuttal has been given by the prosecution, and bad character is not relevant (see directions on Bad Character)

The defendant has called evidence to establish that he is a person of good character. Witnesses have attested that he is a person of unblemished character. [Refer to evidence]

The prosecution has, however, led evidence that the defendant has [prior convictions or other evidence as to character]. The prosecutor submits that having regard to this evidence you would not accept him as a person of good character, while counsel for the defendant maintains that you would nonetheless do so.

It is necessary therefore to consider the totality of the evidence as to the defendant's character and determine whether you accept that he is a person of good character.

If you accept that he is a person of good character, you may take that evidence into account in his favour in the following ways: [continue with good character direction].

If, on the other hand, you do not accept that the defendant is a person of good character, evidence of bad character must not be used to strengthen the prosecution case against him. You are not entitled to say “Because of the defendant’s bad character we think he is a person who is likely to have committed the crime.”

Indeed, if you do not accept that the defendant is a person of good character, the law requires you to put all consideration of character out of your minds in determining whether you are satisfied beyond reasonable doubt that the defendant is guilty of the crime charged.

It is not inevitable that a trial judge must give a direction as to the use to be made of good character evidence adduced for the defendant in any case in which it is raised.¹ It is a matter for assessment in each case whether the evidence is relevant to either the defendant’s credibility or the unlikelihood of his having committed the offence in question or both. The suggested directions should be read in that light. A defendant’s lack of previous convictions does not necessitate a good character direction.²

¹ *Melbourne v The Queen* (1999) 198 CLR 1, *R v Jurcik* [2001] QCA 390, *R v Hinschen* [2008] QCA 145, *R v TZ* (2011) 214 A Crim R 316.

² *R v Soloman* [2006] QCA 244.