



## Attorney General's Guidance

### Honorary Police - disqualification from holding office

- 1) This guidance concerns the approach to be taken by those considering applications to the Honorary Police where the applicant has a criminal record.
- 2) If the Parish receives an application from an applicant with a criminal record, the application and a copy of the criminal record should be sent to the Attorney General for consideration. In cases where the prospective officer is elected following a public election, the Parish should arrange for a criminal record check before the officer is sworn in at the Royal Court and a copy of the record should be sent to the Attorney General. In cases where the applicant or prospective officer has no criminal record, this should be confirmed to the Attorney General in writing.
- 3) The following offences will be considered an absolute bar to election as an Honorary Police officer:
  - a) Any of the following customary law offences (whenever committed):
    - i) murder;
    - ii) grave and criminal assault;
    - iii) rape;
    - iv) sexual offences;
    - v) abduction/ kidnapping;
    - vi) blackmail;
    - vii) perjury;
    - viii) robbery;
    - ix) breaking and entering with intent;
    - x) arson;
    - xi) perverting the course of justice.
  - b) An offence under any of the following enactments (whenever committed):
    - i) The Terrorism (Jersey) Law 2002 or Article 2 or 3 of the *Loi (1884) sur les matières explosives*;
    - ii) Article 2 of the *Loi (1895) modifiant le droit criminal*;
    - iii) Article 3, 4 or 5 of the Official Secrets (Jersey) Law 1952;
    - iv) Article 23, 23A, 25A or 26, 26A and 26B of the Road Traffic (Jersey) Law 1956;
    - v) Section 1 of the Taking of Hostages Act 1982 of the United Kingdom as extended to Jersey by Order in Council;
    - vi) any of the enactments in the definition of "drug trafficking offence" in Article 1(1) of the Drug Trafficking Offences (Jersey) Law 1988;

- vii) The Torture (Jersey) Law 1990;
  - viii) Section 1 of the Aviation Security Act 1982 of the United Kingdom as it is extended to Jersey by Order in Council;
  - ix) Section 9 of the Aviation and Maritime Security Act 1990 of the United Kingdom as extended to Jersey by Order in Council;
  - x) The Protection of Children (Jersey) Law 1994;
  - xi) The Proceeds of Crime (Jersey) Law 1999;
  - xii) The Firearms (Jersey) Law 2000;
  - xiii) The Corruption (Jersey) Law 2006;
  - xiv) The Sexual Offences (Jersey) Law 2018.
- c) Aiding, abetting, attempting, inciting or conspiring in relation to any offence in paragraph 3) a) or b).
- d) An offence committed within the preceding 10 years in respect of which there was imposed:
- i) a sentence of imprisonment (including youth detention); or
  - ii) a fine of more than level 2 on the standard scale; or
  - iii) an order under Article 3 of the *Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée*; or
  - iv) an order under Article 2 of the Criminal Justice (Community Service) Orders (Jersey) Law 2001.
- e) An offence committed elsewhere than in Jersey:
- i) at any time having the attributes of an offence listed in paragraph 3) a), b) or c); or
  - ii) within the preceding 10 years for which a court or tribunal imposed a sentence or fine, or made an order, to the same or equivalent effect as a sentence, fine or order mentioned in paragraph 3) d).
- 4) Where a criminal record discloses any other offence, the Attorney General will have discretion as to whether the individual should be disqualified from election.
- 5) Manslaughter is deliberately excluded from the above list. The Attorney General considers that there may be special considerations to be taken into account concerning such offences and that disqualification should therefore remain discretionary.
- 6) Except in cases where an individual is disqualified because the offence falls into the lists in paragraph 3, in deciding whether an individual should be disqualified from election to the Honorary Police the following factors will need to be taken into consideration:
- a) Age when the offence was committed - some offences are associated with young offending and levels of responsible behaviour often increase with age. Examples of offences in this category are breach of the peace, drunk and disorderly, and minor road traffic offences such as speeding. An applicant's conviction profile would indicate whether such offences were isolated and age-related.
  - b) Time since the offence was committed.

- c) Severity of sentence – the length or type of sentence can be an indicator of the circumstances of the case including the seriousness of the offence, aggravating/mitigating factors, antecedents, age, remorse, etc.
- d) Aggravating factors of the offence - eg dishonesty, abuse of authority or breach of trust, offences against the police, violent offences, holding a position of responsibility.
- e) Special circumstances – eg provocation, state of mind.
- f) Present character and standing in the community - an applicant may be able to prove reform over a substantial period of time and/or exemplary service to the community. Such factors will not prevent disqualification in extreme cases but may tip the balance in favour of the applicant where suitability for election is judged to be marginal.
- g) Frequency of offending – a combination of offences may tip the balance in favour of disqualification.
- h) Giving evidence in a criminal trial - prospective officers having criminal convictions involving dishonesty would be susceptible to hostile cross-examination in any defended criminal trial.
- i) Whether the applicant has disclosed the convictions – failing to disclose convictions on an application form indicates dishonesty and is grounds for the applicant to be disqualified from election.

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