

Ch 18: Evidence of character: evidence of the good character of the accused

The evidence admissible

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Where witnesses are called, it is inappropriate for the judge to direct the jury to approach their evidence with caution, especially when the prosecution has chosen not to question them: *R v McChleery* [2019] EWCA Crim 2100.

The meaning of ‘good character’ and the entitlement to the direction

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Footnote 32

See also *Mustafa v The Environment Agency* [2020] EWCA Crim 597: warning Letters sent to a company by the Environment Agency do not affect the entitlement.

R v Hunter

Effective good character

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In *Pegram v DPP* [2019] EWHC 2673 (Admin), it was ‘well within the scope of permissible exercise of judgment’ for the judge to decide not to give a direction in circumstances where the accused had old convictions and, in the circumstances of the case, there was little room for character to play a part.

The discretion to modify is broad: *R v Hunter* [2015] 1 WLR 5367, CA, at [79] - [82]. See, for example, *R v KH* [2020] EWCA Crim 1363, an historic sexual offences case where it was within the judge’s discretion to modify her direction to the effect that the accused’s very old conviction for theft was relevant to his credibility, since credibility of his evidence about events around the time of the conviction was an issue before the jury.

Failure to give a direction and safety

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The appellate court must be able to say that the judge exercised discretion on a wrong basis or reached an irrational conclusion: *R v Sepulveda-Gomez* [2020] 4 WLR 11, CA, at [35].

See, for example, *R v McChleery* [2019] EWCA 2100, where no direction was given but the accused was of absolute good character and ‘credibility was all.’

Concerning para 5 in the text, See, for example, *Mustafa v The Environment Agency* [2020] EWCA Crim 597, where the accused took a properly considered tactical decision not to seek a good character direction. See also, *R v KH* [2020] EWCA Crim 1363.

General note: The Crown Court Compendium was updated in December 2020.