



The Bar Council

Jury Service

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| Purpose: | To draw barristers' attention to issues relating to this topic. |
| Scope of application: | All practising barristers |
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| Status and effect: | Please see the notice at the end of this document. This is not “guidance” for the purposes of the BSB Handbook I6.4. |

General approach

1. The Criminal Justice Act 2003 s21 came into force on 5 April 2004. Since then, members of the Bar are no longer entitled to be excused from jury service as of right; although note Criminal Practice Directions (2024) 8.1.2, 8.1.6 and 8.2.4:

8.1.2 The Court has power to excuse a potential juror:

a)...

b) whose personal circumstances render it unsuitable for them to serve, whether or not an application has already been made to the jury summoning officer for deferral or excusal

8.1.6 The judge must ensure that employees of prosecuting authorities do not serve on a trial prosecuted by their employer. They can serve on a trial

prosecuted by another prosecuting authority [NB see R v Abdoukov [2008] 1 Cr App R 21; Hanif v UK [2012 Crim LR295; R v L [2011] 1 Cr App R 27]

8.2.4 The judge should release to the jury bailiff any potential juror who has been excused or stood down from serving on that trial, unless it is considered necessary to excuse that juror from further jury service at that time. Save in those circumstances, such a juror will be released back into the jury pool and may be asked to serve on another trial.

2. In relation to decisions concerning deferral of, or excusal from, jury service, the MOJ has published 'Guidance for Summoning Officers': <https://www.gov.uk/government/publications/guidance-for-summoning-officers-when-considering-deferral-and-excusal-applications/guidance-for-summoning-officers-when-considering-deferral-and-excusal-applications>).

The Guidance states:

Paragraph 4: The expectation is that everyone summoned for jury service will serve at the time for which they are summoned. It is recognised that there will be occasions where it is not reasonable for a person summoned to serve at the time for which they are summoned. In such circumstances, the summoning officer should exercise discretion to defer the individual's service to a more appropriate time. Only in exceptional circumstances should a person be excused from jury service in relation to that summons.

Paragraph 18. Members of the judiciary or those involved in the administration of justice who apply for excusal or deferral on grounds that they may be known to a party or parties involved in the trial should normally be deferred or moved to an alternative court where the grounds for deferral or excusal may not apply. If this is not possible, then they should be excused. Paragraph 4 above applies.

3. There are additional considerations which apply to certain categories of potential jurors involved in the administration of justice. Those categories are:
 - employees of the prosecuting authority;
 - police officers summoned to a court which receives work from their police station or who are likely to have a shared local service background with police witnesses in the trial;
 - prison officers summoned to a court, who are employed at a prison linked to that court or who are likely to have special knowledge of any person involved in a trial.

4. Potential jurors falling into these categories should be excused from jury service unless there is a suitable alternative court or trial to which they can be transferred. For example, an employee of the Crown Prosecution Service (CPS) should not serve on a trial prosecuted by the CPS. However, they can serve on a trial prosecuted by another prosecuting authority, such as the Environment Agency. Similarly, a police officer can serve where there is no particular link between the court and the station where the police officer works.
5. The more likely course therefore is deferral, and it is only in "extreme circumstances" that a person will be excused completely.
6. A common problem is likely to be where you are summoned to attend as a juror where you regularly practise and/or sit as a Recorder. It would be inappropriate for a juror to have any special knowledge of any person involved in a trial: that applies not just to defendants or witnesses, but also to members of the judiciary, and to the legal representatives involved in a trial. Knowledge of the jury bailiff or other court staff in your professional capacity will not be considered a reason to be excused from service.
7. If a member of the Bar receives a summons to attend the court at which you regularly practise and/or sit as a Recorder, you should apply to the summoning officer not to serve at that particular court. If deferral would not solve the problem, the summoning officer should consider whether jury service could be undertaken at a different court. It is to be borne in mind that no juror is expected to travel more than one and a half hours from home in order to serve on a jury.
8. As with any other potential juror, valid professional or business reasons may justify deferral or excusal. However, as the Guidance makes clear, such applications will be "looked at closely and granted only if there would be unusual hardship". If you have a fixture which was arranged prior to receipt of a jury summons, and where it would be contrary to the interests of the client to return the brief, then application for deferral should be made. Such an application should contain sufficient information to enable the summoning officer to make an informed decision.

Serving as a juror

9. If selected to serve on a jury, it is axiomatic that you do so as part of your duty as a private citizen. It is neither necessary nor appropriate to conceal your profession from other jurors, but nor is it necessary to volunteer such

information immediately. You should expect to be treated as equal members of the jury and should insist that you are not accorded any special status.

10. The most important thing for you to note is that you are sitting on the jury as part of the tribunal of fact, and not in your capacity as a barrister.
11. Where a jury is required to leave court during the trial, you should not offer any explanation as to the reason and should not give any explanation beyond what the Judge has told the jury, even if asked.
12. You should not express any advice or opinion as to the law, or as to any direction of law given by the Judge, at any time. You may, like any other jury member, send a note to the Judge asking any relevant question of fact or law. However, also like every other member of the jury, you must accept that it is for the Judge, not the jury, to decide issues of law. You must, therefore, accept the Judge's directions as to any issue of the law, even if you consider it to be incorrect.
13. Likewise, if you as a member of the jury have any concerns about anything said or done by other jurors, or anything that happens out of court, you should not remain silent or take the matter into your own hands but, as you will be directed by the judge (and consistent with your duty to the administration of justice), you should raise the concern by sending a note to the judge via the jury bailiff so that, if appropriate, it can be dealt with by the judge during the trial.

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