

## **Chapter 17: Evidence of character: evidence of the good character of the accused**

### ***The evidence admissible***

#### **Page 490**

Under the principle in *R v Rowton* (1865) Le&Ca 520, CCA, the witness's evidence must be based on his own personal knowledge of the accused's general reputation in the relevant community and he must share the community's view: *R v Del-Valle* [2004] EWCA Crim 1013 at [11]. The right to call witnesses under the principle is not lost because the accused will receive a good character direction: see the decision of the Northern Ireland Court of Appeal in *R v Grimes* [2017] NICA 19 at [34].

As mentioned in the text, the rule in *R v Rowton* has never been expressly overruled, but in modern practice it has been all but abandoned. In *R v Del-Valle*, [2004] EWCA Crim 1013 at [11], the Court of Appeal stated:

In many respects the law has moved well beyond *Rowton* and evidence of particular opinions and acts are routinely admitted, as is evidence of good character based on the absence of convictions. Indeed it is rare for evidence of general character founded on general reputation to be adduced in a modern criminal trial

See also *R v Grimes* [2017] NICA 19 at [35].

The common law rule under which evidence of a person's reputation is admissible in criminal proceedings for the purpose of proving his good (or bad) character has been preserved and put on a statutory basis by s 118(1) of the Criminal Justice Act 2003.

### ***The terms of the direction***

#### **Page 491**

#### **Footnote 9**

See now, the Crown Court Compendium (July 2019), Part 1, 11, Example 5.

#### **Footnote 12**

See now, the Crown Court Compendium (July 2019), Part 1, 11, Example 7.

#### **Footnote 13**

See now, the Crown Court Compendium (July 2019), Part 1, 11

Page 492

Footnote 18

See also, in the case of a Crown Court judge directing himself in an appeal from a magistrates' court, *R (Arthur) v Crown Court at Blackfriars* [2017] EWHC 3416 (Admin).

***The meaning of 'good character' and the entitlement to the direction***

**Page 493**

**Footnote 28**

See also *R v Bailey* [2017] EWCA Civ 35 (a bind over will not necessarily deprive the accused of his entitlement to an unqualified good character direction).

**R v Hunter**

***Absolute good character***

**Page 497**

See now, the Crown Court Compendium (July 2019), Part 1, 11, Example 1.

***Effective good character***

**Page 497**

**Footnote 52**

See now, the Crown Court Compendium (July 2019), Part 1, 11, Example 1

***Previous convictions or cautions adduced under s 101 by the defence***

**Page 498**

**Footnote 55**

the Crown Court Compendium (July 2019), Part 1, 11, Example 3 and 4

## ***Procedure***

### **Page 500**

See the Criminal Procedure Rules 2015, SI 2015 1490, r 21.4(8): defendants are required to give notice orally or in writing as soon as is reasonably practicable and in any event before the evidence is introduced and, in the Crown Court, at the same time, give notice orally or in writing of any direction sought to be given to the jury. See also r 25.14.

## **Other issues relating to good character directions**

### **Page 501**

#### ***The good character of prosecution witnesses***

It is mostly the case that the good character of a prosecution witness is irrelevant. However, it may come into play in some situations. In *R v Mader*, [2018] EWCA Crim 2454, the Court of Appeal conducted a review of authorities and distilled the following well-established principles.

1. Generally speaking, the starting point is that evidence is not admissible simply to show that a prosecution witness is a generally truthful person who should be believed (see *R v Amado Taylor* [2001] EWCA Crim 1898 at [19] and see **Ch 2**; *R v RG* [2002] EWCA Crim 1056 at [30]; *R v Ali* [2006] EWCA Crim 1976 at [34]; and *R v Lodge* [2013] EWCA Crim 987 at [18]).
2. Evidence is admissible if relevant to an issue in the trial (unless excluded under an exclusionary rule of evidence).
3. Issues to which evidence of disposition may be relevant are not closed. However: (a) the issue of consent in a sexual case is an issue to which evidence of character or disposition may be relevant and (b) if the accused's defence to a violent crime is that he was defending himself against an attack launched by the complainant, the non-violent character of the latter is no less relevant than that of the former as a matter of logic (see *R v Amado Taylor* [2001] EWCA Crim 1898. See also *R v Ali* [2006] EWCA Crim 1976 at [36]).
4. If admitting evidence on the basis that it is "issue-relevant", a trial judge must take care to ensure that the issue to which the evidence is relevant and its limitations are understood by the jury See *R v Lodge* [2013] EWCA Crim 987 at [26]. The judge should also ensure that the effect of admitting the evidence is not to water down the protection provided by the primary

Adrian Keane and Paul McKeown, *The Modern Law of Evidence*, 12<sup>th</sup> Edition  
Update: September 2019

obligation upon the prosecution to prove its case and any good character direction that may be given for the defendant (see *R v Green* [2018] 4 WLR 39, CA, at [25]- [26]).