

From: [REDACTED]
To: [sentencingcouncil](#)
Subject: Submission to consultation paper regarding use of good character in sentencing
Date: Wednesday, 12 February 2025 11:55:48 AM

Dear NSW Sentencing Council,

I am writing to provide a submission to the consultation paper regarding legislation and common law behind the use of good character to mitigate sentences.

I wholeheartedly support the #YourReferenceAintRelevantCampaign and the removal of good character references as a mitigating factor in the sentencing of child sexual abuse, domestic violence and rape cases.

It is essential that Australia prioritises the justice, protection and wellbeing of victims and survivors by ensuring that our sentencing framework reflects the seriousness of and immense harm caused by these crimes. Good character references undermine offenders' true accountability, while continuing to re-traumatise victims and survivors. It is a process in our 'justice' system that appears inherently unfitting - that a child would have to face a system that prioritises their perpetrator's reputation over their experience and voice.

In regard to question 5.3 about use of good character for offenders who plead not guilty, I do not support this as this would still mean allowing offenders who plead guilty to use character references, which is fundamentally problematic.

In regard to question 5.4 about good character as an aggravating factor, this would be particularly relevant in cases of grooming. In many cases, it is not just the child that has been groomed, but a whole family, group or community that has been manipulated into trusting a perpetrator. This, in turn, allows this person unquestioned access to the child. In these situations, people in that community who have been part of the grooming are likely to present good character references in support of the offender.

I note that there are some legal practicalities that need to be considered in reforming legislation in order to respond to this issue, and that some submissions supported retaining the current law, including because good character references are a historical part of our law and are just one mitigating factor that are considered at sentencing. However, I think it is immensely important for the Sentencing Council to acknowledge that Australia's legal system has historically not prioritised the justice of victims and survivors, and that this review has a genuine, once-in-our-lifetime opportunity to contribute to improved outcomes.

Legislation and the functioning of our legal system inherently shapes and impacts public perceptions, and allowing the use of good character references perpetuates deeply

problematic myths and misconceptions about child sexual abuse, domestic violence and rape. For example, it perpetuates victim-blaming attitudes and beliefs that question the experiences of victims and minimise the role of perpetrators. While that may have been an appropriate part of our law historically, I implore the Sentencing Council to question whether this aligns with the values of today's society and the society that we wish to create for the future.

If the outcome of this review is not to remove good character references, the Sentencing Council should consider what options outside of legislative reform exist to make the sentencing process as safe and trauma-informed as possible for victims and survivors regarding the use of good character references. For example, this could include additional training for judges and other court staff about child sexual abuse and grooming, including the impacts on victims and survivors and how perpetrators use trust and reputation in order to commit their crimes.

Thank you for considering my submission.

Warm regards,

██████████