

YourReference AintRelevant

**Submission to the NSW Sentencing Council's
Review of Good Character in Sentencing.**

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Introduction

Dear Mr. McClellan and Members of the NSW Sentencing Council,

I want to begin by expressing my sincere gratitude to the NSW Sentencing Council and to NSW Attorney General Michael Daley for undertaking this critical second phase of review into the use of 'good character' references in the sentencing of convicted child sex offenders. I also deeply appreciate the decision to expand this review into other crime types, including adult sexual assault and domestic violence offences. This is a monumental step toward ensuring that our justice system upholds the dignity and rights of survivors rather than reinforcing the systems that have long failed them.

As the co-founder of the *Your Reference Ain't Relevant* campaign and a survivor of child sexual abuse, this review is deeply personal. My team and I have poured our blood, sweat, and tears into this fight—knocking on doors, engaging with lawmakers, and tirelessly advocating for reform for 2 years now. Our campaign, which began as a grassroots push to close this glaring loophole in sentencing laws, has grown into a national movement. Since the last review, we have expanded into multiple states, including the Australian Capital Territory, South Australia, Western Australia, Tasmania, and Queensland. We have met directly with each state's Attorney General, and they have all explicitly stated that they are looking to this review before making any decisions regarding their own legislation. The weight of this moment cannot be overstated—what happens here in New South Wales has the potential to shape national reform.

This urgency was made clear on July 5, 2024, when the *Your Reference Ain't Relevant* campaign was formally included as a priority item on the agenda at the *Standing Council of Attorneys-General (SCAG)* meeting. The fact that this issue was placed before the nation's top legal decision-makers signals just how far we've come—but also how much further we have to go. Survivors, legal experts, and advocates have spoken in unison: 'good character' references have no place in the sentencing of convicted child sex offenders and other perpetrators of gender-based violence.

For far too long, the justice system has protected the reputations of offenders over the dignity of survivors. The continued use of 'good character' evidence in sentencing is a direct insult to those who have fought for justice. It reinforces the very structures that enabled abuse in the first place and undermines public confidence in the judicial process. This is our opportunity to change that.

This review is not just a legal exercise—it is a test of whether our justice system truly stands with survivors. And for every person who has ever been retraumatized by a courtroom that valued an abuser's 'standing in the community' over the harm they caused, we cannot afford to fail this test.

What follows in this submission is an uncompromising call for real reform—reform that does not allow judicial discretion to continue prioritising the voices of offenders over the lived experiences of survivors.

We urge the NSW Sentencing Council to listen not just with legal analysis but with moral clarity. The time for half-measures is over. It's time for bold, unequivocal action.

Sincerely,

Harrison James

Co-Founder, *Your Reference Ain't Relevant* Campaign.

Questions

Question 5.1: Use of Good Character Generally

(1) Should consideration of good character as a mitigating factor be abolished in all cases? Why or why not?

Yes. Consideration of 'good character' as a mitigating factor in sentencing should be abolished in all cases of sexual violence, particularly for child sex offenders, adult sexual assault perpetrators, and domestic violence offenders. This practice is outdated, fundamentally flawed, and actively undermines justice by allowing offenders to weaponise their social standing and personal relationships to secure more lenient sentences.

Good character references do not exist in a vacuum. They are often provided by individuals who have been groomed by the offender themselves—people who have only ever seen the carefully constructed version of the perpetrator that they were meant to see. Child sex offenders, rapists, and domestic abusers don't just groom their victims—they groom entire communities, cultivating trust and influence as a shield to hide their crimes. When courts accept character references from these groomed networks, they are not weighing objective facts; they are reinforcing the very systems of manipulation that enabled the abuse in the first place.

In this review, I advise that we must stop conflating character **evidence** with character **references**—they are not the same thing. Character evidence, such as professional psychological assessments or rehabilitation reports, can provide an objective insight into an offender's actual rehabilitation prospects. In contrast, character references are subjective, biased, and unreliable testimonials often written by friends, family members, or professional colleagues who have no expertise in risk assessment or rehabilitation. To equate the two is not just legally irresponsible—it is dangerous.

Hiding behind 'judicial discretion' is a weak and ineffective justification that we've seen arise throughout our campaigning, for keeping this harmful practice alive. The assumption that judges can simply 'know when' to dismiss inappropriate character references is a luxury that survivors cannot afford. Judicial discretion without clear boundaries allows bias to thrive and leaves the door open for the same systemic failures that have historically minimised sexual violence in all its wicked forms. If we are serious about protecting victims and holding offenders accountable, we must remove any gray areas that allow courts to prioritise an offender's reputation over the harm they have caused.

The argument that good character can demonstrate rehabilitation potential is deeply flawed. Rehabilitation is not measured by how many people 'vouch for you.' It is demonstrated through tangible behavioural change, genuine accountability, and

professional oversight. If rehabilitation is truly a priority, then courts should rely on psychological evaluations, treatment compliance, and expert assessments—not letters from friends and colleagues affirming an offender’s ‘good character.’

To allow character references to continue influencing sentencing for sex offenders and domestic abusers is to uphold a system that protects perpetrators more than it protects victims. This is not just a failure of survivors—it is a failure of justice itself. If we are to take a strong, unequivocal stance against child sexual abuse, rape, and domestic violence, we must recognise that ‘good character’ references are not just irrelevant—they are actively harmful.

The justice system has long shielded offenders from true accountability by prioritising their standing in the community over the suffering of their victims. The continued acceptance of character references in sentencing is a glaring example of this. It must end. Not in theory. Not in half-measures. But in full, uncompromising action.

(2) How could consideration of evidence of good character be limited?

It shouldn’t be limited—it should be abolished entirely for all sexual offences, especially child sexual offences, and domestic violence cases. ‘Good character’ is not a mitigating factor in these crimes; it is often a **weapon used to commit them**. The justice system must recognise this reality and take decisive action to close the loopholes that allow perpetrators to receive lighter sentences based on manipulated perceptions of their character.

However, if the concern is genuinely about rehabilitation, then the conversation must shift entirely. **Professional, evidence-based evaluations—such as forensic psychological assessments—should be the only accepted form of evaluation when considering rehabilitation prospects, risk of reoffending, or genuine remorse.** These assessments must be conducted by trained professionals who specialise in offender risk management and rehabilitation—not by friends, family, colleagues, or community members who have no qualifications to assess an offender’s risk to society.

Let’s be clear:

- **Character references should be abolished. There is no justification for allowing personal testimonials from friends or family to influence sentencing.**
- **Rehabilitation must be assessed using rigorous, professional evaluations—not subjective letters from people who may have been groomed or manipulated by the offender.**
- **Any reference to an offender’s standing in the community, work ethic, or social contributions should be deemed irrelevant and inadmissible.**

Allowing ‘good character’ references in sentencing decisions does not serve justice—it **reinforces the very structures that protect perpetrators**. The only way forward is the complete removal of these references from sentencing considerations. Anything less is a betrayal of survivors and an endorsement of a system that prioritises an offender’s reputation over the harm they’ve caused.

Question 5.2: Use of Lack of Previous Convictions Generally

(1) Should consideration of lack of previous convictions also be abolished as a mitigating factor in all cases? Why or why not?

Yes. The consideration of an offender’s lack of previous convictions as a mitigating factor should be abolished, particularly in cases of child sexual offences and domestic violence. The assumption that a clean criminal record equates to lower culpability or a lower likelihood of reoffending is fundamentally flawed.

Sexual and domestic violence offences are inherently underreported crimes, often perpetrated in private and against vulnerable victims who may be unable to seek justice due to fear, coercion, or systemic barriers. Many offenders—especially child sex offenders—engage in a pattern of abuse over extended periods before being formally charged and convicted. In these cases, a lack of prior convictions does not reflect innocence or good character; rather, it underscores the difficulty in prosecuting and convicting these crimes.

Granting leniency to offenders based on an absence of prior convictions ignores the well-documented reality that many perpetrators have engaged in misconduct long before they are caught. It also reinforces a system that fails victims by prioritising an offender’s perceived “clean record” over the harm they have caused. In cases of child sexual abuse, rape, and domestic violence, sentencing should be based on the severity of the crime and its impact on the victim, not on the absence of a prior criminal history.

(2) In what circumstances should the fact that the offender does not have a record of previous convictions not be used in mitigation?

In cases involving sexual offences, domestic violence, or any crime where there is a significant power imbalance between the offender and the victim, a lack of previous convictions should hold no weight in mitigation. These offences often occur within cycles of coercion and control, making it highly probable that the offender has engaged in similar misconduct without detection or legal consequence.

To ensure justice is survivor-centred, the focus in sentencing should remain on the harm inflicted and the risk of reoffending, rather than an offender’s ability to avoid

prior prosecution. The absence of a criminal record does not negate the severity of their crime, nor should it be leveraged to minimise their accountability.

Question 5.3: Use of Good Character for Offenders Who Plead Not Guilty

(1) Under what conditions could good character not be available as a mitigating factor for offenders who plead not guilty?

Good character should never be available as a mitigating factor for offenders who plead not guilty. When an offender maintains their innocence and forces a victim to endure the trauma of a trial, any suggestion that their “good character” should reduce their sentence is entirely inappropriate.

A person’s standing in the community, reputation, or positive qualities do not lessen the harm they have inflicted. In fact, when an offender has actively denied responsibility, these references serve only to further undermine the victim’s experience and reinforce the structures that protect perpetrators. The justice system must center survivors, not the reputations of those who harm them.

Good character references have no place in sentencing decisions—whether an offender pleads guilty or not.

Question 5.4: Good Character as an Aggravating Factor

(1) Under what conditions could use of good character in the commission of an offence be treated as an aggravating factor?

While the proposal to treat ‘good character’ as an aggravating factor in sentencing may appear beneficial, our campaign advocates for the complete abolition of character references in cases of sexual offences and domestic violence. While this approach aims to address the misuse of perceived respectability by offenders, it may inadvertently perpetuate the very issues it seeks to resolve.

Research by Professor Michael Salter of UNSW (Identifying and understanding child sexual offending behaviour and attitudes among Australian men, 2023) underscores that many offenders deliberately position themselves in roles of authority and trust within communities, leveraging their ‘good character’ to facilitate and conceal their criminal activities. This strategic manipulation not only enables the commission of offences but also complicates the judicial process, as traditional character assessments become entangled with the offender’s deceptive conduct.

Incorporating 'good character' as an aggravating factor could lead to inconsistent applications and potential challenges in judicial proceedings. The subjective nature of character evaluations may result in disparities in sentencing, as courts grapple with determining the extent to which 'good character' contributed to the offence. Moreover, this approach may inadvertently shift focus away from the primary elements of the crime, placing undue emphasis on character assessments.

The *Your Reference Ain't Relevant* campaign advocates for the complete exclusion of 'good character' references in sentencing for child sexual, rape, and domestic violence offences. We assert that an individual's societal standing or perceived respectability should neither mitigate nor aggravate the sentence. The focus should remain squarely on the nature of the offence and the harm inflicted upon the victim.

By eliminating 'good character' considerations entirely, the judicial process can avoid the pitfalls associated with subjective good character references. This approach promotes a more objective and equitable sentencing framework, ensuring that justice is administered based on the facts of the case and the severity of the offence, rather than the perceived character of the offender.

In conclusion, while reclassifying 'good character' as an aggravating factor is well-intentioned, it introduces complexities that may undermine the consistency and fairness of sentencing. A more effective solution lies in the outright removal of 'good character' references from the sentencing process in cases of sexual and domestic violence offences, thereby upholding the integrity of the judicial system and ensuring that sentences reflect the true nature of the crimes committed.

Question 5.5: Extending the Special Rule to All Child Sexual Offences

(1) Should the special rule be extended to all child sexual offences? Why or why not?

Yes. The special rule should be extended to **all** child sexual offences, regardless of the offender's relationship to the victim. The current law applies only to individuals in **formal positions of authority**, such as teachers, religious leaders, and scout-masters, but **excludes** family members, step-parents, family friends, neighbours, and others who often use their trust and perceived good standing to commit these crimes. This distinction is both arbitrary and dangerous.

An offender's perceived "good character" is often the very tool they use to facilitate their abuse. By maintaining an artificial divide between "authority figures" and others who hold power over children, the justice system is **allowing abusers to benefit from the same mechanism that enabled their crimes in the first place.**

- **Step-parents, family friends, and neighbours** often occupy positions of trust within a child’s life. Their proximity to the victim grants them access and influence, much like a teacher or priest. The idea that a **stepfather who grooms and abuses a child should be allowed to submit character references, while a school teacher cannot, is a legal loophole that defies logic.**
- **The justice system is currently giving discounts on sentences to offenders for the very thing that allowed them to commit the offence.** Good character is not a mitigating factor—it is a **facilitating factor** in child sexual abuse. It is what allows perpetrators to groom their victims, gain trust, and avoid suspicion. The law must reflect this reality.

If the system is serious about protecting children, it **must** recognise that abuse is not limited to institutions. It thrives in homes, communities, and social circles where offenders are shielded by the **illusion** of respectability. There is no justifiable reason why the ability to submit character references should be based on **job title** rather than **behaviour**.

The law should not prioritise the **reputation** of the offender over the **harm they have caused**. Survivors deserve better.

(2) What offences, if any, should be added to the definition of “child sexual offences” for the purposes of the special rule?

The special rule should apply to **all** child sexual offences where the offender has used trust, status, or perceived good character to gain access to or control over a victim. This should include, but not be limited to:

- **Sexual offences committed by family members, step-parents, and de facto partners** – The home is one of the most common places for child sexual abuse to occur. The fact that these offenders are currently **excluded** from the special rule is an outrageous oversight.
- **Offences committed by neighbours, family friends, or other trusted adults in the child’s life** – These offenders often hold **just as much** influence over a child as a coach or teacher. They should not be able to use their perceived good standing to argue for a reduced sentence.
- **Grooming offences** – Grooming is a calculated process that relies on **the offender’s good reputation to lower a child’s defenses**. Allowing character references in these cases completely **contradicts** the reality of how grooming operates.
- **Possession, distribution, and production of child sexual abuse material (CSAM)** – Those who consume and circulate CSAM are **directly contributing** to the abuse of children. A person’s “**good character**” should

never be used to justify leniency in cases where they have participated in the exploitation of children.

- **Offences where the offender has used community status to evade suspicion or manipulate the victim** – Many offenders hold informal but powerful roles in their communities. A well-liked football coach, a generous charity worker, or a respected neighbour can **all** use their standing to **silence victims and deter intervention**. These cases should also be captured under the special rule.

The bottom line is simple: **if an offender has used their perceived good character to facilitate or evade consequences for their abuse, they should never be allowed to weaponise that same “good character” in court**. Anything less than an **across-the-board ban** on good character references in child sexual offence cases **fails survivors and allows perpetrators to manipulate the system to their advantage**.

Question 5.6: Extending the Special Rule to Sexual Offences Against Other Vulnerable Groups

(1) What other vulnerable groups or offences against vulnerable groups could be subject to the special rule?

While the *Your Reference Ain't Relevant* campaign has focused on abolishing good character references in child sexual offence cases due to our own lived experiences, we **firmly believe that the logic underpinning our advocacy extends to all survivors of sexual violence and domestic abuse**.

The legal system should not allow an offender's **social standing, reputation, or perceived moral character** to be used as a mitigating factor in cases where their actions have caused significant and lasting harm. This is especially relevant when the **power dynamics and vulnerability of the victim** played a role in the offending.

Thus, the special rule should be extended to **all sexual offences and domestic violence offences** where perpetrators have exploited trust, dependency, or social power to commit harm. Specifically, it should apply to:

- **Adult victims of sexual violence** – Sexual violence is frequently facilitated by the **offender's perceived good character**. Rapists often **do not “appear” to be criminals**—they are partners, friends, colleagues, and respected figures in the community. Just as good character should not mitigate harm in child sexual offences, it should not be permitted in adult sexual violence cases.

- **Victims of domestic and family violence** – Perpetrators of domestic abuse frequently rely on their **public reputation and social influence to silence victims, evade accountability, and discredit survivors**. In many cases, abusers are respected community members, professionals, or high-status individuals whose abuse is carefully hidden behind a public facade of respectability. Allowing character references in sentencing **reinforces the very dynamic that enables domestic abuse to persist**.
- **Elder abuse and abuse of individuals with disabilities** – Individuals in **caregiving roles**, including family members, medical professionals, and institutional staff, can weaponise their **perceived integrity** to evade accountability for abuse. Extending the special rule would prevent offenders from using their **social standing or professional role as a shield against justice**.

(2) How could they be identified?

Vulnerable groups should be identified based on **the presence of a power imbalance between the offender and the victim, the victim’s capacity to resist or report the abuse, and the likelihood that the offender’s perceived good character played a role in enabling or concealing the offence**.

This should include:

- **Existing legal definitions of vulnerability**, such as survivors of domestic violence, individuals with disabilities, and elderly victims.
- **Cases involving coercive control, intimidation, or dependency** between the victim and offender.
- **Cases where the offender used social status, professional standing, or community influence** to perpetrate or conceal the abuse.

By identifying offences in which **an offender’s reputation played a role in enabling harm, silencing the victim, or minimising accountability**, we can ensure that **good character references do not further entrench systemic inequalities in the justice process**.

(3) Should any of these offences be subject to the condition that the offender’s good character or lack of previous convictions was of assistance in the commission of the offence?

No, because **good character itself is a key tool used by perpetrators to commit and conceal harm**. If we make “assistance in the offence” a necessary condition, we risk creating **legal loopholes** that allow offenders to continue benefiting from

their reputations in cases where direct causation is difficult to prove, like we have seen with the current provision for child sex offences.

- **The mere fact that an offender’s good character did not “assist” the offence does not mean it should be weighed in their favour at sentencing. The presence of a previously unblemished record should never be allowed to overshadow the severity of the harm they have inflicted.**
- **In sexual violence and domestic abuse cases, the very nature of these crimes means that good character often plays an indirect but powerful role—whether by allowing the offender to avoid suspicion, gain access to victims, or discredit survivor accounts.**

Thus, **we do not support imposing a condition that an offender’s good character must have “assisted” the offence in order for the special rule to apply.** The fact remains: **a person’s reputation or community standing should have no influence on sentencing outcomes in cases of sexual violence or domestic abuse.**

Question 5.7: Extending the Special Rule to Adult Sexual Offences

(1) What adult sexual offences, if any, should be subject to the special rule?

The special rule should be extended to **all adult sexual offences.** Just as **good character references have no place in the sentencing of child sex offenders, they have no place in the sentencing of rapists and perpetrators of sexual violence against adults.**

The assumption that sexual violence is **only enabled by an offender’s good character in institutional or child sexual abuse settings is flawed**—offenders who commit rape and other forms of sexual violence against adults **routinely rely on their perceived good character, status, and influence** to:

- **Evade suspicion or accountability** before being charged.
- **Discredit survivors’ accounts** by appealing to their public image and reputation.
- **Leverage their social standing or community ties** to elicit leniency in sentencing.

If an offender has **brutalised another human being, violated their bodily autonomy, and caused profound and often lifelong harm,** their social reputation should have no bearing on the sentence they receive. **Allowing good character**

evidence in sentencing for adult sexual offences only serves to uphold the systemic protection of perpetrators at the expense of survivors.

The *Your Reference Ain't Relevant* campaign urges the NSW Sentencing Council to ensure that good character references **cannot be used to reduce the sentences of individuals convicted of:**

- Rape
- Sexual assault
- Aggravated sexual assault
- Sexual touching without consent
- Sexual act without consent
- Assault with intent to have sexual intercourse
- Incest

We also call for consideration of **coercive control and other related forms of sexualised violence** that disproportionately impact women and vulnerable groups, ensuring that **no offender can benefit from their social standing at the expense of justice.**

(2) Should any of these offences be subject to the condition that the offender's good character or lack of previous convictions was of assistance in the commission of the offence?

No. The assumption that an offender's **good character must have "assisted" in the commission of the offence in order for the special rule to apply is fundamentally flawed.**

- **Good character references are not neutral testimonials; they are often written by individuals who have been manipulated by perpetrators.** The offender's "good character" is, in many cases, **a product of the very systems of coercion and deception that enabled the offence in the first place.**
- **The absence of previous convictions should not mitigate the sentence of a rapist.** Sexual offences, by their very nature, often involve repeat offending that goes undetected for years due to low reporting rates, victim intimidation, and institutional failures.

Requiring proof that an offender's good character was instrumental in facilitating the crime creates a **legal loophole** that allows rapists and sexual abusers to continue benefiting from the very structures that protect them.

Instead of entertaining this loophole, **the NSW Sentencing Council must take an unequivocal stance: No convicted rapist or perpetrator of adult sexual**

violence should receive sentencing leniency based on their perceived “good character” or lack of previous convictions.

Question 5.8: Extending the Special Rule to Domestic Violence Offences

(1) Should domestic violence offences be subject to the special rule? Why or why not?

Yes. Domestic violence offences should **absolutely** be subject to the special rule. **No convicted domestic violence offender should be able to rely on ‘good character’ references to receive a lighter sentence.**

The *Your Reference Ain't Relevant* campaign has been clear: **good character is often the very thing that allows abuse to occur in the first place.** Domestic violence perpetrators **don't just abuse their victims—they manipulate the people around them** to maintain power, evade accountability, and minimise the severity of their actions.

Domestic violence is **not a crime of impulse—it is a crime of coercion, control, and sustained harm** over time. Many abusers carefully cultivate an image of respectability within their community, workplace, and family networks **precisely to shield themselves from consequences.** When courts allow character references to influence sentencing, they are actively **validating the very structures of manipulation and deception that protect abusers.**

The *Your Reference Ain't Relevant* campaign urges the NSW Sentencing Council to ensure that good character references **cannot be used to reduce the sentences of individuals convicted of:**

- Domestic violence-related assaults
- Stalking and intimidation with intent to cause fear of harm
- Coercive control offences
- Choking, suffocation, or strangulation
- Breaching domestic violence orders

Domestic violence offenders often rely on **their “good standing” to discredit victims, manipulate the legal system, and escape the full force of the law.** Allowing them to continue using character references to lessen their sentences **sends a dangerous message—that a man's reputation matters more than a woman's safety.**

(2) Should these offences be subject to the condition that the offender's good character or lack of previous convictions was of assistance in the commission of the offence?

No. The **assumption that an offender's good character must have "assisted" in the commission of domestic violence offences is dangerously misleading.**

- **Abusers do not need to be in positions of formal power to inflict harm.** Domestic violence thrives on **coercion, intimidation, and the slow erosion of a victim's autonomy.** Whether an abuser is a respected professional or an ordinary person within their community, their **perceived good character** should never be allowed to outweigh the **real harm they have caused.**
- **Many domestic violence perpetrators are first-time offenders—not because they have only offended once, but because their abuse has gone unreported or has been systemically ignored.** The fact that an abuser does not have a prior conviction does **not** mean they are not dangerous—it only means they have not yet been held accountable.

Requiring proof that an offender's **good character actively enabled the offence** creates a **legal loophole** that will continue to let abusers off the hook. Instead of protecting perpetrators, the NSW Sentencing Council must ensure **domestic violence survivors receive the justice they deserve.**

Domestic violence is **one of the most pervasive and under-prosecuted crimes in Australia.** It is an **affront to justice** that courts still allow convicted abusers to use character references to soften their sentences.

The *Your Reference Ain't Relevant* campaign maintains that **good character references should be abolished in all domestic violence sentencing decisions.** The legal system must finally recognise that **a perpetrator's community standing has no bearing on the trauma they have inflicted.**

The NSW Sentencing Council now has a choice: **stand with survivors or continue protecting abusers.** There is no middle ground.

Question 5.9: Extending the Special Rule to Other Serious Offences

(1) What other serious offences, if any, should be subject to the special rule?

The *Your Reference Ain't Relevant* campaign maintains that **any offence involving the exploitation, coercion, abuse, or deliberate harm of another person should be subject to the special rule.** This includes, but is not limited to:

- Human trafficking and slavery offences
- Torture and inhumane treatment
- Kidnapping and deprivation of liberty
- Murder and manslaughter
- Offences related to modern slavery and forced labour
- Revenge pornography and image-based abuse
- Serious financial abuse, particularly where it is linked to coercive control or elder abuse

Each of these crimes **involves a serious breach of trust and power dynamics** where offenders **manipulate their victims and those around them to escape accountability**. Allowing offenders to present ‘**good character**’ as a mitigating factor in these cases **minimises the gravity of their actions and undermines justice for survivors**.

Furthermore, offenders in these crime types **often use their social status, professional reputation, or public trust to facilitate their offences**. This pattern is especially evident in cases of human trafficking, modern slavery, and financial abuse, where **offenders exploit trust to groom and control their victims**. The justice system must recognise that **a person’s public reputation does not absolve them of the harm they have caused**.

Thus, **good character references should be entirely removed from sentencing considerations in these offences**. A person’s history of ‘**contributions to the community**’ **does not change the fact that they have severely harmed another person**.

(2) Should any of these offences be subject to the condition that the offender’s good character or lack of previous convictions was of assistance in the commission of the offence?

No. The *Your Reference Ain’t Relevant* campaign maintains that **good character references should be entirely abolished in sentencing for these serious offences—without exceptions or conditions**.

While **some legal frameworks have attempted to limit good character references only when they ‘assisted’ in the commission of the offence, this approach creates unnecessary legal loopholes**. In reality:

- **Many perpetrators do not need a formal position of power to manipulate and control their victims**. Their reputation alone provides them with access and influence.
- **Many offenders do not have prior convictions—not because they haven’t committed crimes before, but because they have evaded**

accountability. The absence of a criminal record does not mean a person is 'low-risk'—it only means they have not yet been caught.

- **The assumption that 'good character' only matters when it facilitates an offence is deeply flawed.** The reality is that 'good character' often enables **grooming, coercion, and the ability to evade detection.**

Rather than creating exceptions, **the law must take an unequivocal stance: good character references have no place in sentencing for serious crimes.** The justice system must stop **prioritising an offender's social reputation over the harm they have inflicted.**

Survivors of serious offences deserve **a justice system that prioritises their safety, dignity, and right to accountability.** Allowing offenders to present 'good character' as a mitigating factor **only reinforces the power imbalances that allowed these crimes to occur in the first place.**

The *Your Reference Ain't Relevant* campaign urges the NSW Sentencing Council to **extend the special rule to all serious offences where an offender has exploited trust, power, or status to harm others.** There must be **no room for judicial discretion on this issue.** The law must reflect a **clear, unambiguous message:**

Your reputation does not erase your crimes. Your 'good character' does not lessen the harm you caused. Your references are not relevant.

Question 5.10: Extending the Special Rule Where There is a Breach of Trust or Authority

(1) What offences, if any, involving breach of trust or authority should be subject to the special rule?

The *Your Reference Ain't Relevant* campaign asserts that **any offence involving a breach of trust or authority should automatically fall under the special rule.** This is because offenders in positions of trust **exploit their status, social influence, and perceived credibility to facilitate abuse and evade accountability.**

The following offences should unquestionably be subject to the special rule where good character references are completely abolished:

- **All child sexual offences,** including those where the offender is a family member, caregiver, or person in a position of informal authority.
- **All adult sexual offences.**
- **Domestic violence offences,** where coercive control, financial abuse, and systemic intimidation are often at play.

- **Offences involving elder abuse**, including financial exploitation, sexual abuse, and physical neglect by caregivers or family members.
- **Offences involving human trafficking and forced labour**, where trust is deliberately cultivated to control victims.
- **Any offence where a person has used their standing in the community or professional reputation to avoid suspicion and gain access to victims.**

The **defining factor in all these cases is that the offender’s authority and perceived respectability were instrumental in the harm they caused.** Allowing them to present ‘**good character**’ as a mitigating factor in sentencing **contradicts the very nature of the crime.**

(2) Should any of these offences be subject to the condition that the offender’s good character or lack of previous convictions was of assistance in the commission of the offence?

No. The *Your Reference Ain’t Relevant* campaign maintains that **good character references should be entirely abolished in these cases—without the need for any additional conditions.**

- **The very fact that an offender held a position of trust or authority means their reputation helped enable the offence.**
- **Requiring courts to assess whether an offender’s ‘good character’ assisted in their crime creates unnecessary ambiguity and legal loopholes.**
- **Predators do not need to be formally recognised as ‘trusted figures’ to weaponise their perceived respectability. Teachers, doctors, and priests are already captured by the law—but what about step-parents, babysitters, family friends, and mentors? Many offenders exploit informal positions of trust, and they must not be allowed to use that trust as a shield in sentencing.**

The NSW Sentencing Council must **send a clear and unambiguous message:**

If you have used trust, status, or authority to perpetrate harm, your ‘good character’ does not deserve consideration in sentencing.

(3) Should a finding that an offender abused a position of trust or authority in relation to the victim of the offence make the offender subject to the special rule? Why or why not?

Yes—without exception.

If an offender **leveraged trust, authority, or social status to commit an offence, this should automatically trigger the special rule.**

- **This principle is already recognised in sentencing laws** (e.g., higher penalties for abuse in institutional settings), but it must extend beyond formal roles to **capture all forms of coercive and predatory behaviour.**
- **Offenders who weaponise trust are the most dangerous in our communities.** They do not rely on physical force alone—they rely on **manipulation, credibility, and social grooming to maintain control and silence victims.**
- **There must be no room for ‘judicial discretion’ in these cases.** The law should be **clear, consistent, and survivor-centred.**

The *Your Reference Ain't Relevant* campaign urges the NSW Sentencing Council to **allow the special rule to all offences where an offender has abused a position of trust or authority to harm others.**

The system must stop **prioritising an offender’s reputation over the harm they have inflicted.** Courts must **recognise that ‘good character’ is not a mitigating factor—it is often the very thing that enabled the abuse.**

Judges should not be left to ‘assess’ whether good character facilitated an offence—if trust was abused, that should be the end of the discussion. No exceptions. No loopholes. No more references.

Question 5.11: Extending the Special Rule to All Offences

(1) Should all offences be subject to the special rule? Why or why not?

Yes. If good character references are problematic in sexual offence and domestic violence cases, they are problematic in all serious offences. Allowing courts to consider ‘good character’ as a mitigating factor undermines accountability and reinforces systemic bias in sentencing. A person’s social standing or prior reputation should never outweigh the harm they have caused.

(2) If yes, should the special rule be subject to the condition that the offender’s good character or lack of previous convictions was of assistance in the commission of any or all offences?

No conditions should be attached. The distinction of whether ‘good character’ assisted in the offence creates unnecessary legal loopholes. The simplest and most just solution is to abolish the use of good character references in sentencing for all serious offences.

Question 5.12: Exempting Under 18-Year-Olds from the Special Rule

The *Your Reference Ain't Relevant* campaign acknowledges that youth justice principles differ from adult sentencing, given the focus on rehabilitation for young offenders. However, **this does not mean that under-18 offenders should automatically be exempt from the special rule when convicted of sexual offences.**

(1) Under what conditions should offenders who are under 18 be exempt from the application of the special rule?

Exemptions should only apply **under extremely limited and specific conditions**, with a clear distinction between:

- **Juvenile offenders who are developmentally capable of understanding the harm they caused and whose behaviour aligns with patterns of predatory offending.**
- **Cases where a young offender's behaviour stems from learned patterns of abuse, lack of education, or their own victimisation, and where there is strong evidence of genuine rehabilitation.**

For this reason, we recommend the following conditions for exemption:

1. Age and Maturity Considerations:

- **A 16 or 17-year-old who has engaged in predatory sexual abuse should not be automatically exempt.**
- **The exemption should apply only to young offenders who demonstrate clear cognitive immaturity or lack the full capacity to understand the harm caused.**
- **Courts should be required to consider neurodevelopmental factors and expert psychological assessments**, rather than simply relying on age as a determining factor.

2. Pattern of Offending:

- **If an offender under 18 has engaged in repeated sexual offences, particularly with evidence of grooming or coercion, they should not be exempt from the special rule.**
- **There must be a distinction between isolated incidents stemming from immaturity and entrenched patterns of sexual offending.**

3. Position of Trust and Authority Still Matters:

- If a minor has **used their ‘good character’ or social status to facilitate abuse**—such as a teenage babysitter abusing a younger child or a sports captain targeting peers—**they should remain subject to the special rule.**
- The core issue in the campaign’s stance is that **‘good character’ references should never mitigate sexual harm, regardless of age.**

4. Demonstrated and Genuine Rehabilitation

- Any exemption must require **objective, evidence-based proof of rehabilitation**—not subjective character references from family or friends.
- If a young offender has undergone **intensive professional intervention, taken accountability, and demonstrated meaningful change**, this should be evaluated based on expert assessment, not personal opinions.

The *Your Reference Ain’t Relevant* campaign supports a nuanced approach to youth sentencing, but we remain firm in our position that:

- **‘Good character’ references should not be admissible for any sexual offences—including those committed by under-18 offenders.**
- **Exemptions from the special rule should be granted only in rare cases where the offender is developmentally immature, has shown genuine rehabilitation, and has not engaged in patterns of predatory behaviour.**
- **If a minor offender has exploited trust or authority to commit a sexual offence, they must be held to the same standard as adults.**

Ultimately, **good character is never an excuse for sexual abuse.**

Question 5.13: No Change to the Current Law

The *Your Reference Ain’t Relevant* campaign firmly rejects the notion that the law should remain unchanged.

(1) What justification is there for courts continuing to take good character into account in sentencing for:

(a) Sexual offences against children – There is no justification. Good character is often the very thing that enables these crimes to occur.

(b) Other offences – While character evidence may be relevant in some cases, it should never mitigate the harm caused in serious crimes like sexual violence and domestic abuse.

(2) How should courts inform themselves of good character in these cases?

Courts should rely on **objective, professional assessments based on evidence-based rehabilitation—not subjective character references.**

(3) Why should courts not take good character into account in sentencing for:

(a) Sexual offences against children – Because perpetrators manipulate their good standing in the community to groom victims and evade accountability. Allowing it as a mitigating factor legitimises this manipulation.

(b) Other offences – It **privileges offenders with social capital and reinforces systemic inequalities.** Sentencing should reflect the harm done, not the reputation of the person who caused it.

The **current law is outdated, harmful, and must be reformed.**

Question 5.14: Adjusting Procedures for Tendering Evidence

The *Your Reference Ain't Relevant* campaign has heard **countless** examples of **fraudulent, misleading, and outright deceptive** character references being submitted in court to soften sentencing outcomes for convicted offenders. These include:

- **Fake character references**—letters submitted under false names or from individuals who barely knew the offender.
- **Old job references**—statements from former employers who had no knowledge of the charges or the offender's history but were still presented as endorsements of their "good character."
- **References from biased sources**—family members, close friends, and colleagues who, knowingly or unknowingly, were manipulated into vouching for the offender's "moral integrity."

These **loopholes** allow courts to **legitimise the voices of those groomed by perpetrators over the voices of survivors**—a practice that must end immediately.

Let's be absolutely clear: **character references serve no legitimate purpose in sentencing for sexual or violent offences.** They are **biased, unverifiable, and designed to manipulate sentencing outcomes in favour of the offender.**

The only real solution is **the total abolition of character references** in cases of child sexual abuse, rape, domestic violence, and other serious crimes. **No reform,**

regulation, or additional scrutiny will fix a system that was designed to protect offenders in the first place.

Anything less than **complete abolition** continues to send a dangerous message: that an offender's reputation, job, or standing in the community **matters more than the harm they have caused**. That is an insult to every survivor who has ever fought for justice.

Question 5.15: Placing the Evidential Burden on Offenders

The *Your Reference Ain't Relevant* campaign rejects the premise that **offenders should be allowed to rely on 'good character' as a mitigating factor at all**. The very fact that someone is standing before the court for a serious offence means that any previous 'good character' was either **irrelevant to their actions** or was actively used to facilitate their crimes.

While shifting the burden onto the offender to prove that their good character did not assist in their offending may seem like an improvement, it **still leaves room for manipulation and subjective interpretation**—which is precisely the issue at hand. Rather than **creating more legal gray areas**, the solution is simple:

- **Character references should be abolished entirely in sentencing for sexual offences, domestic violence, and all crimes involving a breach of trust.**

If rehabilitation is the goal, let it be assessed through **professional, evidence-based evaluations**—not through letters from **friends, colleagues, or community members who have no real insight into the offender's risk of reoffending or capacity for change**.

The justice system should be **focused on protecting survivors and preventing future harm—not on preserving the reputations of convicted offenders**. The only way to ensure that happens is to **remove 'good character' from sentencing considerations altogether**.