

**From:** [Mia Smith](#)  
**To:** [sentencingcouncil](#)  
**Subject:** Submission to the Sentencing Council: Abolishing Good Character References in Sentencing  
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I submit that the use of “good character” evidence in sentencing proceedings should be abolished. This position is grounded in the need for equity, consistency, and justice, particularly for victim-survivors of crimes such as child sexual offending. Good character evidence, as currently applied, often undermines the purposes of sentencing, perpetuates systemic inequities, and fails to appropriately prioritize the harm caused to victims.

### **1. Good Character in Child Sexual Offending Cases**

The Crimes (Sentencing Procedure) Act 1999 currently limits the use of good character evidence where it is shown that the offender’s good character “was of assistance to the offender in the commission of the offence” (s 21A(5A)). This limitation recognizes that perpetrators of child sexual offences often rely on their perceived trustworthiness and respectability to gain access to victims and to evade suspicion.

However, the limitation is too narrow. In all child sexual offending cases, evidence of good character or a lack of previous convictions is inappropriate because it shifts focus away from the gravity of the offence and the harm caused to victims. The current requirement to prove that the offender’s good character assisted in the commission of the offence imposes an unnecessary evidentiary burden and risks diminishing accountability for offenders. Expanding the exclusion to encompass all child sexual offences would better reflect the unique dynamics of these crimes and ensure sentencing is victim-centered.

### **2. Good Character as a Mitigating Factor in General Sentencing**

The continued use of good character evidence as a mitigating factor undermines the purposes of sentencing, including deterrence, punishment, and denunciation. Key concerns include:

- **Inconsistency with Sentencing Objectives:** Sentencing aims to reflect the seriousness of the offence and the harm caused. Good character evidence often leads to reduced sentences, which can minimize the severity of the crime in the eyes of the law and the public.
- **Systemic Inequities:** Offenders from privileged backgrounds are more likely to have access to character witnesses and references, perpetuating inequalities within the justice system. This disproportionately benefits individuals from socioeconomically advantaged groups, creating an appearance of bias.
- **Interaction with Other Mitigating Factors:** Good character evidence often overlaps with other mitigating factors, such as lack of prior convictions, resulting in double-counting and disproportionate leniency.

Abolishing good character as a mitigating factor would align sentencing with its objectives and ensure that the focus remains on the offence and its impact.

### **3. The Experience of Victim-Survivors**

Victim-survivors frequently report feeling retraumatized by the introduction of good character evidence in sentencing proceedings. Such evidence can:

- Shift attention away from the offender’s wrongdoing and the harm caused.
- Create a perception that the offender’s character excuses or minimizes their actions.

- Undermine the credibility and dignity of victims, particularly in cases of power imbalance.

Legislative reform should prioritize the voices of victim-survivors by eliminating practices that exacerbate their trauma. Abolishing good character evidence would demonstrate a commitment to centering their experiences and promoting fairness.

#### **4. Procedures for Receiving Good Character Evidence**

The current procedures for admitting good character evidence are often informal, allowing subjective and anecdotal testimony to influence sentencing. This lack of rigor contrasts starkly with the strict evidentiary standards applied to victim impact statements. If good character evidence is to be retained (which I oppose), it must be subject to greater scrutiny and standardization to ensure its relevance and reliability.

#### **Recommendations**

1. **Abolish the Use of Good Character Evidence in Sentencing:** Good character evidence should be removed entirely as a mitigating factor to promote equity and focus on the gravity of the offence.
2. **Expand the Limitations of s 21A(5A):** If good character evidence is retained, its exclusion should apply to all child sexual offending cases, without the requirement to prove that good character “assisted” the offence.
3. **Strengthen Victim-Survivor Protections:** Reforms should prioritize victim-survivor experiences by removing practices that undermine their credibility and exacerbate trauma.
4. **Standardize Evidence Admission:** If good character evidence remains admissible, strict evidentiary standards should be introduced to prevent abuse or over-reliance on subjective testimony.

#### **Conclusion**

Good character evidence no longer serves a justifiable purpose in sentencing proceedings. Its abolition would enhance the fairness, consistency, and victim-centered nature of sentencing, while upholding the objectives of punishment and deterrence. I urge the Sentencing Council to recommend the removal of good character evidence as a mitigating factor and to implement broader reforms that reflect contemporary community standards and values.

Respectfully submitted,  
[Your Name]