

From: [Patrick Holmes](#)
To: [sentencingcouncil](#)
Subject: Good character in sentencing - preliminary submission
Date: Monday, 8 July 2024 5:11:43 PM

Good Evening,

I make the below preliminary submission to the Sentencing Council in relation to the terms of reference of the review of good character in sentencing, regarding the operation of section 21A(5A) and other relevant sections of the *Crimes (Sentencing Procedure) Act 1999* (NSW) and the common law that relate to the use of "good character" in sentencing.

In particular, my submission is in relation to all sentencing proceedings for child sexual offending and of the experience of victim-survivors in the sentencing proceedings and outcome.

The use of good character as a mitigating factor in sentencing of adults convicted of child sexual offences is in my opinion, not appropriate or fit for purpose. Child sexual offenders are not simply presented with an opportunity to sexually abuse a child. They create that opportunity through high levels of manipulation, hidden behind a facade of 'good character' to avoid suspicion in the commission of the offending, allowing it to continue undetected. When the offending is detected and reported, the courts allow adults accused of child sexual offences to use this facade to evade accountability after the fact as a mitigating factor in sentencing. This is why the use of character references in sentencing of adults committed of child sexual offences must be repealed.

The sentencing proceeding is an incredibly difficult time for victim-survivors. Emotionally, it feels as though the sentence outcome for the perpetrator is the court's adjudication of what the years of psychological and physical suffering that will follow on the part of the victim is worth. To listen to the close friends of your rapist tell a court why what you know they did to you doesn't compare to their right to escape consequences because they "made a mistake" is an experience no one should have to endure.

The idea that someone can be considered of good character while also being convicted of child sexual offences is a contradiction that cannot be substantiated in good conscience. I ask the sentencing council to consider my preliminary submission in its review of the use of good character in sentencing proceedings.

Thanks

Patrick Holmes