

From: [D"Arcy Ertel](#)
To: [sentencingcouncil](#)
Subject: Submission to review concerning "good character" in sentencing
Date: Tuesday, 9 July 2024 4:44:48 PM

Dear Mr. McClellan and the NSW Sentencing Council,

I am writing to provide my input on the review of section 21A(5A) of the Crimes (Sentencing Procedure) Act 1999 (NSW) and other relevant sections concerning the use of "good character" in sentencing, particularly for child sexual abuse cases.

The 2023 Australian Child Maltreatment Study, which is the first national study of the prevalence, nature and impacts of all 5 forms of child maltreatment, estimated that around 1 in 4 (28.5%) of Australians aged 16 years and over have experienced child sexual abuse. These estimates are conservative as they do not include online forms of child sexual abuse. The study also found that most (78%) victims and survivors of child sexual abuse said it happened more than one time, 42% said it happened more than 6 times and 11% said it happened more than 50 times.

This is not something that happens to 'others', but that impacts almost all people in Australia. In recognising this prevalence and the impacts of this crime on individuals and the community as a whole, Australia should be striving to be an international leader in this space, by prioritising the voices of victims and survivors and implementing safe and trauma-informed systems and structures.

It is crucial to ensure that Australia's sentencing framework reflects the seriousness of child sexual abuse offences and holds perpetrators accountable for their actions. The use of good character references in these cases undermines the gravity of the crime and fails to fully acknowledge the immense and often life-long harm caused to victims and survivors.

The Australian Child Maltreatment Study identified the profound impacts child maltreatment has on people's mental and physical health. When compared with people who had not experienced child maltreatment, those who experienced child maltreatment (including child sexual abuse) were more than twice as likely to have a mental disorder; 3 times more likely to have Major Depressive Disorder; 3.9 times more likely to have self-harmed in the past year; 4.6 times more likely to have attempted suicide in the past year.

It is essential to prioritise the justice, protection and wellbeing of victims and survivors, and hold perpetrators accountable for the deep harm that they inflict on children.

Allowing perpetrators to present good character references is inherently inconsistent with the crime itself. It provides perpetrators with a platform to continue the manipulation and deception that is often used to exploit individuals and communities to gain access to children, particularly in cases of grooming. Many perpetrators present themselves as 'normal' and trustworthy individuals in public, while having the capacity and desire to commit what are some of the most horrendous crimes against our most vulnerable.

The use of good character references also perpetuates commonly held misconceptions in the Australian community about child sexual abuse. There is immense shame and stigma around child sexual abuse and the realities of this crime, and many people in Australian

society hold victim-blaming attitudes that lead to justifying the actions of perpetrators, disregarding the power dynamics that are inherent to child sexual abuse, and failing to recognise that child sexual abuse is never a child's fault.

I wholeheartedly support the 'Your Reference Ain't Relevant' Campaign's call to remove the last 21 words of the current provision. Its inclusion is not relevant, equitable or fit for purpose.

Thank you for considering my submission.

Warm regards,

D'Arcy Ertel