

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

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Thank you for the opportunity to make this submission. I would like to raise to attention the use of character references in relation to sentencing decisions. Specifically, I note the discussion in relation to the court allowing a restricted form of character evidence as a mitigating factor if it is relevant to the offender's prospects of rehabilitation or risks of reoffending. I believe this end can be achieved by means other than through character references, which, for the reasons listed below, can promote enormous harm and anxiety in victims and survivors.

The committee will be aware of the work undertaken by survivor advocates such as Harrison James in relation to the #YourReferenceAintRelevant campaign. This work is critical, as it raises the voices of those who are often the least empowered in the system. If we are to be true to the idea of equitable legal systems, then the needs of the vulnerable should be considered first and foremost.

I stand by this cohort because I have also walked this path, been through the criminal justice system, and endured its vagaries, tensions, and trauma.

Securing a conviction against a perpetrator is one of the toughest gigs around. Make no mistake, the people who declare themselves in, put so much at risk. Having endure the worst, they expose themselves to further risk, and the potential to be triggered all over again, the driver being to keep others safe where they could not be protected.

In the interests of delivering compassion to those who undertake this thankless task, I believe it is important to provide a point in time where survivors know the work is over, the task is done and there is an opportunity for clarity and healing. The last impression survivors need to have is that the system understood their needs and made adjustments to prevent further trauma.

Allowing character references to work in the service of assessing rehabilitation necessarily still entails a form of valorising the offender. If the aim is for the court to be informed on ways the offender may be rehabilitated, I submit that this work be done through means such as a checklist the offender fills out, and which character witnesses sign off on. This approach is crisp, efficient and removes the prospect of the survivor having to hear or see witnesses speak of the perpetrator in glowing terms in narrative form.

To allow otherwise is to still convey the idea that the perpetrator was 'otherwise a good person.' And this still undermines the very point that survivors wish to make to the community – that indeed it is through this deliberate, tested, and targeted processes of cultivating an image of safety, good will and benevolence that perpetrators succeed in trapping their victims. Victims are then caught – blindsided – by this trickery.

To bring on a chorus of character references is to entirely undermine the point that the victim has, against all odds, succeeded in making.

Beyond that, the practice is cruel.

So to the committee I ask you to please consider how far victims and survivors have come to reach this point. Please consider how words of praise piled on the manipulator sound in the survivor's ears. Please calculate the damage that is freshly wrought when courts allow this testimony in. Please consider the checklist alternative.