



YWCA CANBERRA

Response to the *Good Character References in the Sentencing of Child Sexual Abuse Matters* discussion paper.
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Acknowledgement of Country

YWCA Canberra proudly recognises the rights of Aboriginal and Torres Strait Islander peoples to

own and control their cultures and pay our respect to these rights. YWCA Canberra acknowledges the need to respect and encourage the diversity of Indigenous cultures and to respect Indigenous worldviews, lifestyles, and customary laws. We extend our respect to the Aboriginal and Torres Strait Islander women who for thousands of years have preserved the culture and practices of their communities in the country. This land was never surrendered, and we acknowledge that it always was and will continue to always be Aboriginal land.

About YWCA Canberra

YWCA Canberra is a feminist not-for-profit organisation that has provided community services and represented women's issues in Canberra since 1929.

Our mission is 'We strengthen communities by supporting girls and women through our services and advocacy' and our vision is 'Girls and women thriving'. We provide essential, quality services for women, girls and families in the ACT and surrounding regions. We work in the areas of children's services, community development, homelessness and affordable housing, youth services, personal and professional training, women's leadership and advocacy.

We are externally accredited against the Quality Improvement Council (QIC) Health and Community Service Standards (7th Edition). Accreditation against the QIC standards supports us to improve client and community engagement, diversity and cultural appropriateness, management systems, governance and service delivery while committing to a cycle of continuous quality improvement. In addition to the QIC standards, we are accredited against the following external client-related service standards for our key areas of work:

- Australian Charities and Not-for-Profit Commission
- National Quality Standard for Early Childhood Education and Care and School-Aged Care
- National Regulatory System for Community Housing
- Registered Training Organisations Standards

Through our national Affiliate Association with YWCA Australia, we are part of the World YWCA network, which connects 120 countries across the globe.

Introduction

YWCA Canberra welcomes the opportunity to provide feedback on the *Good Character References in the Sentencing of Child Sexual Abuse Matters* discussion paper. We attended the roundtable discussion on 24 May and have raised this important reform separately with the Attorney General. We support the objectives of the *Your Reference Ain't Relevant* campaign and recommend the adoption of Option 1 as outlined in the paper. We provide responses and reasoning behind not adopting Options 2, 3 and 7, herein.

The current provisions of the Crimes (Sentencing) Act 2005 entitle those convicted of child sex offences character references in sentencing mitigation. This entitlement inflicts further distress on the survivors who have made the brave decision to pursue justice for crimes perpetrated against them. The exemption also does not align with contemporary understanding of grooming behaviours.

While the entitlement does not apply to those where their employment or volunteering roles facilitated the perpetration of their crimes, the absence of a similar exclusion for all child sex offenders fails to acknowledge the reality that child sex abusers capitalise on their charisma and reputation to groom and offend. Entitlement to a character reference for sentencing mitigation grossly minimises this malign behaviour trait.

Response to options presented

We support Option 1 'Removing "Good Character" references as outlined in the discussion paper.

While Section 34A(b) of the Crimes (Sentencing) Act, provides an exclusion for those whose noted community standing facilitated abuse, we believe the limited scope of this exclusion is simply a product of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, the terms of reference of which were restricted to institutional offending and responses. As such, by its very remit the recommendations had limited scope to consider the pernicious societal grooming and

manipulation that underlies sexual offending against children in the broader, non-institutional context. This limitation should not stymie further reform into the future as our understanding of child sex offending improves. The existing legislation is a handbrake on both the justice system keeping pace with the research base but also on collective procedural efforts to centre the survivor in court processes dealing with sexual offending. We do note the following consideration with option 1:

- The scenario presented at (f) in the discussion paper poses a quandary: that a young offender, where the offence involved a person of similar age (though in minority) and where the prospect of rehabilitation for the offender is significant. We note this was also raised at the roundtable.

We provide the following reasoning in relation to options 2, 3 and 7 of the discussion paper.

Option 2:

- a) Fails wholly to recognise the intrinsic role that good character *prior* to the offending behaviour plays in grooming.
- b) Does not accommodate contemporary understanding of recidivism among child sex offenders and the prospect that by the time an offender is detected they are statistically likely to have offended multiple times against multiple victims.

Option 3:

- a) Furthers the arbitrary nature of the current exclusion which could lead the exclusion to becoming meaningless and redundant.
- b) Potentially reinforces myths around victimhood based on the relationship of the offender to the victim - those whose offender sits within the *trusted* abuser archetype were victims of charisma and grooming while those outside that archetype are aberrations.

Option 7:

- a) Rather than being victim-centric, this proposal has the potential to disempower complainants by removing them from proceedings they are a party to.

Recommendation: The ACT Government pursue legislative reform that mirrors Option 1.

Recommendation: The ACT Courts develop and implement a Bench Book for sexual offending in the ACT.

Recommendation: Restrictions on victim impact statements at sentencing be reviewed.