

Good Character After Conviction

Character references at sentencing in sexual and domestic abuse cases

Publication: We consent to publication of this supplementary submission. We would welcome the opportunity to give oral evidence or to provide draft amendment wording.

Why we are writing

Our main submission focused on the Commissioner, the Victim Charter and victims' experience of the process. It did not address one issue that has since come before the Committee directly: the reading of positive "good character" references at the sentencing of people convicted of sexual and domestic abuse offences.

We understand the Commissioner for Victims of Crime told the Committee in evidence this week that character references should not be used at sentencing for domestic or sexual crimes. We agree, and we offer the Committee a practical legislative route through this Bill.

The gap

In Northern Ireland, nothing in statute restricts the use of good character references in mitigation, even at the sentencing of the most serious sexual and child sexual offences. Whether they are heard, and the weight they carry, is left entirely to judicial discretion. A referee need not confirm that they know what the person was convicted of, need not attest to the truth of what they say, and is not ordinarily tested on it. Generalised opinion ("he is a good man") can be given a weight it has not earned, and the victim has no notice and no safeguard when it is put forward.

The fairness of the trial is not in question. The question is what legitimate sentencing purpose is served, once guilt is established, by hearing that the offender was considered a good person by people who were not present when the offending took place. In sexual and abuse cases, a trusted reputation is often not a counterweight to the offending but part of how it was carried out and concealed. The Justice Minister has acknowledged this, and has said she would not rule out using this Bill to end or limit good character references in sexual and abuse cases.

For victims and families, sitting in court while an offender's curated reputation is weighed against the harm he caused is one of the most damaging moments in the whole process. It sits squarely within the victim experience this Bill exists to improve, and alongside our Recommendation 18 on victims being told of, and heard at, sentencing.

The precedent

The Republic of Ireland has legislated. Under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024, a character reference at sentencing for a sexual offence must be given on

oath or by affidavit, so that the person giving it can be cross-examined. Northern Ireland should go at least as far.

What we propose

Our full paper sets out four draft clauses on a continuum. The first two are procedural, sit comfortably with the defendant's fair-trial rights, and could be enacted through this Bill without waiting for the wider sentencing review:

- A. Sworn, tested character evidence.** At sentencing for prescribed sexual, domestic abuse and child offences, character evidence may be relied on only where the person giving it confirms, on oath or by affidavit, that they know the offence(s) of which the defendant has been convicted and that what they say is true; and the court has an express power to require that person to attend and be questioned.
- D. Victim notification and transparency.** Where character material is to be relied on, the victim is told in advance and given its substance, so that they are not confronted with it for the first time in the courtroom.

Two further clauses reflect where the Voice & Justice Alliance ultimately stands:

- B. Weight tied to purpose.** The weight given to good character is limited to its relevance to rehabilitation and risk of reoffending.
- C. Exclusion where character enabled the offence.** Good character must be excluded as mitigation where it contributed to committing, continuing or concealing the offence. For sexual and child sexual offences, we believe good character should not operate as mitigation at all.

Scope

The Bill already contains provisions on criminal evidence and on victims' experience of proceedings, and we believe Clauses A and D fall within its scope. If the Committee takes a different view, we ask that its report recommend that the Department bring these provisions forward at the earliest opportunity, rather than deferring them to the wider sentencing review.

Our ask of the Committee

Press for amendments at Committee Stage to put Clauses A and D on the face of this Bill, and record in the Committee's report that the use of good character as mitigation in sexual and abuse cases should be reviewed with a view to Clauses B and C. Our summary one-pager is attached as an annex; the full paper and draft clause wording are available on request.

Good Character After Conviction

Character references that mislead the court, and re-wound the victim

At sentencing for serious sexual, domestic abuse and child offences, a convicted person can put forward glowing “good character” references, often from people who do not know what the person did, or who the victim is. The court may hear that an offender is respectable and admirable, with no test of whether the referee even knows the facts. For victims, hearing their abuser praised in open court is a fresh injury.

The gap

- **No test of knowledge.** A referee need not confirm they know the offence, yet their words can influence the sentence.
- **Opinion dressed as evidence.** Generalised “he’s a good man” character opinion is treated with a weight it has not earned.
- **No victim safeguard.** The victim has no notice and no protection when their abuser’s “good character” is asserted.

The ask

Reform how positive character material is used at sentencing for serious offences:

- require a referee to confirm, on oath or by affidavit, that they know the offence(s) and that what they say is true, as the Republic of Ireland now requires;
- give the court an express power to require a referee to attend and be tested;
- a victim-notification and transparency safeguard.

Why now

The Victims and Witnesses of Crime Bill is at Committee Stage now, a ready legislative vehicle. **The safe, uncontested elements (sworn, tested references and victim transparency) can be enacted through this Bill without waiting on the wider sentencing review.**