Working **together** for

fairness, justice and **safety**

A Consultation on Good Character References at Sentencing in Criminal Proceedings

This consultation begins on 8 October 2026.
This consultation ends on 3 December 2026.

Department of Justice
Access to Justice Directorate
October 2026



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Ministerial Foreword

Fairness is a fundamental pillar of any justice system and, as Justice Minister, I am determined to ensure that our criminal justice system in Northern Ireland delivers fairness for everyone. I have been concerned for some time about potential inequalities between defendants and complainants when it comes to good character evidence, particularly in cases involving sexual offending.

However, the legislative framework governing character evidence at trial is complex. Any reform would require careful consideration to ensure no diminution of the right to a fair trial. Therefore, I have decided to consider the issue of good character evidence in two stages: good character evidence at trial will be included within the scope of my Department's Review of Sentencing Policy, with a view to developing legislative proposals for the next Assembly mandate, if required; the use of good character references at sentencing hearings will be explored more urgently.

This consultation document includes potential options for formalising or restricting the use of good character at the sentencing stage of criminal proceedings. Whilst the proposals are focused primarily on proceedings involving sexual offences, in line with recent reforms in other jurisdictions, I would also welcome feedback on the need to reform the use good character references during proceedings for other offences.

I look forward to receiving your views on the proposals. If, based on the feedback to this consultation, the Department can identify a straightforward legislative approach to introduce reform, then it is my intention to take this forward during the current Assembly mandate, subject to Executive approval and Assembly time. As part of this process, careful policy development will be required to ensure that any resultant legislation is compliant with ECHR rights, including the Article 6 rights of the defendant. The remaining issues, including the framework governing character evidence at trial, will be taken forward in the Review of Sentencing Policy.

In the meantime, I would strongly urge everyone to exercise personal responsibility when it comes to providing character references for use by a court.

Naomi Long MLA
Minister of Justice

Responding to this consultation

i. The Department of Justice (DoJ) invites your views on the issues raised by this consultation. We encourage respondents to answer the consultation questions via the on-line facility on NIDirect, accessible via https://consultations.nidirect.gov.uk/doj/good-character-references-in-criminal-proceedings

ii. If you are unable to respond using our online consultation facility, you can request a Microsoft Word version and email your response using the following address: GoodCharacterReferencesConsultation@justice-ni.gov.uk or you can write to us at:

Sentencing Policy Unit,
Department of Justice,
Block 2, Knockview Buildings
Stormont Estate,
Belfast
BT4 3SG.

iii. The DoJ will publish a summary of responses to the consultation. All information will be handled in accordance with the General Data Protection Regulations (GDPR)

Duration and closing date

iv. The consultation will run for eight weeks. It opens on 8 October 2026 and will close on 3 December 2026.

Alternative formats

v. The consultation documents are available online at DOJ Consultations. Copies in alternative formats can be made available on request. If it would assist you to access the document in an alternative format or language, please let us know and we will do our best to assist you.

Equality Considerations

vi. Section 75 of the Northern Ireland Act 1998 aims to encourage public authorities to address inequalities and demonstrate measurable positive impact on the lives of people experiencing inequalities. Its effective implementation should improve the quality of life for everyone in Northern Ireland.

vii. Section 75 requires public authorities to have due regard for the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
- men and women generally
- persons with a disability and persons without
- persons with dependants and persons without

viii. The DoJ has carried out an equality screening exercise when considering this consultation. The purpose of this screening was to identify if there is likely to be an impact on equality of opportunity and/or good relations and so determine whether an Equality Impact Assessment (EQIA) was necessary.

ix. At this point, we do not consider that a full EQIA is required.

Rural Needs Impact Assessment

x. The DoJ gave consideration to a Rural Needs Impact Assessment as part of the consideration of these policy proposals. It identified that there would be no significant adverse or differential impact on people living in rural communities compared with those in an urban setting.

Screening/Assessment Documents

xi. Copies of these screening assessments are available on our website along with the consultation document. We welcome any comments you might have on these.

xii. The DoJ will take account of the evidence gathered through this consultation in developing final policy proposals and will revisit the screening documents and rural needs impact assessment if required.

Privacy, confidentiality and access to consultation responses

xiii. For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice at **Annex B**

xiv. Your response, and all other responses to the consultation, may be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) (EU) 2016/679. Any such disclosures will be in line with the requirements of UK data protection legislation. Please refer to **Annex C**.

xv. If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the DoJ should receive a request for the information under the FOIA or EIR.

xvi. Further information about confidentiality of responses is available by contacting the Information Commissioner's Office

Complaints

xvii. If you have any concerns about the way this consultation process has been handled, please submit your complaint by email to Governance.Unit@justice-ni.gov.uk or write to the following address:

Governance Unit Corporate Engagement & Communications Division

Department of Justice
Room B5.16 Castle Buildings,
Stormont Estate
Belfast BT4 3SG

1. Introduction

1.1 The purpose of this consultation is to take views on the use of good character references at sentencing hearings in certain criminal proceedings.

1.2 When determining a person's sentence, a court can consider any relevant personal mitigating circumstances relating to the defendant before taking its decision on the appropriate sentence. This may include evidence or information provided to the court about the defendant's previous good character, which can take the form of references provided by, for example, an employer, family member or community figure. Whilst this information may have the potential to contribute to a reduction in sentence, it is not guaranteed, and any weight attributed to it at sentencing will be dependent on the particular facts and circumstances of each case, including the seriousness of the offence and the need for deterrence.

1.3 The use of good character evidence, both during a criminal trial and at sentencing, were issues that the Department had planned to consider as part of its Review of Sentencing Policy, launched on 14 January 2026[1].

1.4 However, in response to growing public concern about the appropriateness of good character references at sentencing, particularly for sexual offences, the Minister has asked the DoJ to urgently consider how this matter could be addressed during the current Assembly mandate.

1.5 This consultation document sets out the current position in relation to good character references at sentencing in criminal proceedings, both in Northern Ireland and in other jurisdictions. More broadly, to help inform understanding of the general position and aid consideration, the document also seeks to summarise the issues relating to the use of good character references, and the challenges associated with potential reforms to the system. Taking account of these factors, the DoJ proposes some options and issues for consultation.

1.6 If this consultation exercise identifies a simple legislative change that could have an impact on this issue, the Minister will consider the possibility of bringing

[1] https://www.justice-ni.gov.uk/news/long-announces-sentencing-review

forward an amendment to the law for consideration during this Assembly mandate.

1.7 Separately, the use of good character evidence during criminal trials will continue to be considered as part of the Review of Sentencing Policy.

2. Good Character Evidence

Northern Ireland

2.1 At sentencing, good character evidence can include an absence of previous convictions, evidence of a positive lifestyle or community contribution, or character references submitted on behalf of the defendant. It is often provided by way of references submitted by employers, family members or community figures, and oral submissions made by the defence. It is of particular relevance for first-time offenders, or where the offence appears to be isolated or aberrant.

2.2 Good character evidence at sentencing is considered a potential mitigating factor, designed to:

- Show the offence is out of character;
- Demonstrate potential for rehabilitation;
- Indicate a lower risk of reoffending; and
- Provide context about the offender's life.

2.3 Good character evidence may also be relevant to the Court's assessment of dangerousness under Article 15 of the Criminal Justice (Northern Ireland) Order 2008 ('the 2008 Order'), which applies where an offender has been convicted of a specified offence or a serious terrorism offence. In these circumstances, the court must determine whether there is a significant risk of serious harm to members of the public by the commission of further such offences by the defendant. In making that assessment, the court must consider all available information about the nature and circumstances of the offence and may also consider any wider pattern of behaviour connected to the offending.

2.4 Article 15(2)(c) of the 2008 Order provides that the court may take into account any information about the offender that is before it. In this context, character references, evidence of previous good conduct, employment history, community involvement, family responsibilities and other information about an offender's background may provide important context to assist the court in its assessment.

2.5 As noted above, whilst good character evidence may be taken into account in personal mitigation, which could contribute to a reduction in sentence, the weight accorded to this evidence at sentencing is subject to judicial discretion and will be dependent on the particular facts of each case, the seriousness of the offence and the need for deterrence. The more serious the offence, the less weight this evidence may be given, particularly where there is a need for the sentence to have a deterrent effect.

2.6 In Northern Ireland, the Court of Appeal has repeatedly stressed that personal mitigation (including good character evidence) will carry limited weight where a deterrent sentence is required[2]. Whilst this approach is taken in the majority of cases warranting a deterrent sentence, the Court has acknowledged that it is not an absolute rule, that there may be exceptional circumstances which require recognition, and the weight to be afforded to personal mitigation will be dependent on the particular circumstances of individual cases[3].

England and Wales

2.7 In England and Wales, at sentencing good character references can be submitted as part of mitigation, but their influence is dependent on the facts of the case (Sentencing Council, 2024).

2.8 The Law Commission in England and Wales reported to the UK Government on 22 July 2025 about evidence in sexual offences prosecutions. In respect of good character evidence, the Commission concluded that, "given the limited strength of the arguments in support of restriction, and the risk to the defendant if this evidence is not admissible…there should not be reform of the admissibility of good character evidence for defendants" (The Law Commission, 2025, p. 214). Instead, the Commission recommended that there should be better judicial control and guidance in respect of this evidence, accompanied by efforts to counter myths and stereotypes, and a broad shift towards fact-based reasoning in criminal trials.

[2] For example, in the King v Stephen McKinney [2024] NICA 35, the King v Thomasena Byrne [2024] NICA 75, The King v Winston Irvine [2025] NICA 45 and The King v Noel David Quigley [2025] NICA.
[3] R v Byrne [2020] NICA 16 paragraphs 25 and 26, R v Noel David Quigley [2025] NICA 6 paragraph 33, and R v Jacek Pacyno [2024] NICA 3 paragraph 39.

Scotland

2.9 In Scotland, at sentencing good character is treated as personal mitigation, taking account of a lack of previous convictions, positive background and evidence from character references (Scottish Sentencing Council, 2021, p. 16). This evidence helps the court to determine whether the offence is out of character, evaluate the risk of reoffending, and consider the prospects of rehabilitation.

2.10 As a result, it can reduce the severity of the sentence, support the imposition of alternatives to custody, and be particularly influential for first time offenders. The weight accorded to good character evidence at sentencing depends on the seriousness of the offence and the need for deterrence or public protection. In the most serious cases, even strong good character evidence will carry limited weight.

Ireland

2.11 In Ireland, like other jurisdictions, good character evidence may be considered by the court when determining the sentence. Types of evidence can include an absence of previous convictions, positive reputation, and character references. Again, like other jurisdictions, good character references may contribute to a reduction in sentence, but the weight afforded to them depends on the seriousness of the offence and the need for deterrence or punishment.

2.12 In 2024, the law in respect of good character references at sentencing was changed, to mandate that character references for sexual offenders presented at sentencing must be made via affidavit. This change ensures that the person who is giving the reference must swear or affirm that the contents of the statement are true, it also means that the person can be cross examined if necessary[4]. These provisions formed part of a broader package of reforms designed to strengthen protections for victims of sexual offences, reduce re-traumatisation during criminal proceedings, and improve confidence in the justice system.

[4] Chapter 3 of the Criminal Law (Sexual Offences & Human Trafficking) Act 2024

2.13 Prior to this reform, courts commonly accepted written character references that were not sworn and were generally not subject to challenge. Critics argued that this practice permitted highly favourable accounts of offenders to be presented without any formal verification and could be distressing for victims who had already undergone a difficult trial process. Concerns were also raised that referees might not always have a full understanding of the offending behaviour or the impact of their statements on victims. The reform was therefore intended to increase accountability, reliability and scrutiny in the use of character references.

2.14 Further law reforms were also undertaken in relation to good character references at sentencing. Part 14 of the Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026 now provides that character evidence must be provided by way of affidavit for any indictable offence, extending this requirement beyond the scope of the 2024 reforms, which were limited to sexual offences. Part 14 of the Act came into operation on 1 September 2026.

Australia

2.15 In Australia, the use of good character evidence at sentencing has been reformed in two states – Queensland, and New South Wales.

2.16 In December 2024 the Queensland Sentencing Advisory Council recommended legislative changes to the effect that, where an adult offender is being sentenced in a case involving sexual offences, a court must not take into account evidence in the form of character references; a person's standing in the community; or, evidence of significant contributions made to the community (Queensland Sentencing Advisory Council, 2024).

2.17 As a result of this recommendation, Queensland introduced and passed the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act 2025[5], which amended the law so that in cases involving sexual offences, good character evidence may only be taken into account as mitigation where it

[5] https://www.legislation.qld.gov.au/view/html/asmade/act-2025-020

is directly relevant to the offender's prospects of rehabilitation and the likelihood of reoffending.

2.18 These amendments followed an earlier legislative change in that jurisdiction in September 2020, which meant that when sentencing a person for a sexual offence against a child aged under 16 years, or for a child exploitation offence, a court 'must not have regard to the offender's good character if it assisted the offender in committing the offence'.

2.19 Following significant debate, the New South Wales Government initially did not proceed with its plan to abolish the use good character as a mitigating factor in all offences, and instead a ban applying only in sexual abuse trials was originally passed in May 2026[6].

2.20 However, the Government immediately reintroduced the proposal for to ban good character evidence as a mitigating factor in all offences, and it was passed on 5 June 2026 (Attorney General, 2026)[7].

2.21 This legislation followed a report by the New South Wales Sentencing Council in July 2025, which recommended that good character evidence should be abolished as a mitigating factor in sentencing for all offences (NSW Sentencing Council, 2025). The approach taken by the New South Wales Parliament was informed by this report and took account of victim advocacy campaigns which sought to highlight the harm caused by character references.

Canada

2.22 In Canada, character reference letters are used at sentencing and can be considered in mitigation in line with the Criminal Code[8]. These letters can influence sentencing but are not determinative, and the court must still take into account other factors, including the seriousness of the offence, the harm

[6] Crimes (Sentencing Procedure) Amendment (Good Character) Bill 2026 - NSW Parliament Good Character Bill
[7] Crimes (Sentencing Procedure) Amendment (Good Character at Sentencing) Act 2026 NSW Parliament Good Character Bill 2
[8] Criminal Code s. 718.2 - https://laws-lois.justice.gc.ca/eng/acts/C-46/section-718.2.html

caused to victims, and the need for deterrence. In the most serious cases, strong character evidence may carry limited weight.

2.23 In December 2015, a high-profile Court of Appeal case in Ontario involving the conviction of a high school teacher for sexual exploitation confirmed that judges have discretion in how they treat character evidence at sentencing (*R v Lavigne* (2015 ONCA 915)[9]). As part of the sentencing process, the defence presented 78 positive character reference letters, and a court-ordered pre-sentence report recommended a non-custodial sentence. However, the judge rejected the mitigating value of the character references, emphasising that the defendant's good reputation enabled the offence rather than mitigating it, and imposed a 13-month custodial sentence, over and above the statutory minimum.

2.24 This decision was upheld on appeal, confirming that judges have discretion in how they treat character evidence at sentencing and, in some cases, positive reputation does not mitigate the offending, Instead, it can highlight the seriousness of the breach and justify a harsher sentence.

[9] https://coadecisions.ontariocourts.ca/coa/coa/en/14397/1/document.do

3. Discussion

3.1 The use of good character references at sentencing can help to ensure that punishment takes account of both the offence and the offender, in the interests of procedural fairness and proportionality.

3.2 Whilst good character references at sentencing are an accepted practice across many jurisdictions, data regarding their prevalence at sentencing is limited. In practice, references may be retained on individual case files, but their submission is not included in the case management data captured by the courts systems in the various jurisdictions.

3.3 However, some researchers have examined samples of sentencing remarks or court records to estimate their prevalence, for example:

- In 1981, a study examined the mitigation deployed in the sentencing of adult defendants in magistrates' courts and the Crown Court in England and Wales and found that good character, and apology or remorse, were mentioned in around half of the 126 pleas in mitigation studied.

- In 2007, a study of 132 Crown Court cases in England and Wales observed that good character was one of the most frequently mentioned personal mitigating factors referred to at sentencing. (Jacobsen & Hough, 2007)

- In 2013, a report published by the Sentencing Council for England and Wales evidenced that good character applied in 20% of cases in 2012. (Sentencing Council, 2013)

- In 2024, a study examined the prevalence of three character-based personal mitigating factors – good character, remorse, and addressing addiction – in sentencing judgments for custodial sentencing passed on assault and burglary offences. Good character as a personal mitigating factor was found to be present in 16.2% of assault cases and 3.6% of burglary cases. Furthermore, it was found that good character, remorse and addressing addiction all had a significant mitigating effect. (Belton & Dhami, 2024)

3.4 It is also important to note that good character references are one of a number of considerations taken into account by the court during sentencing, as evidenced in the previous chapter. Existing case law and sentencing guidelines also ensure that good character references do not routinely act as a significant mitigating factor in the most serious cases. Accordingly, although they form part of the sentencing process, safeguards are already in place to limit their mitigating effect on sentences in appropriate circumstances.

3.5 However, whilst the use of good character references at sentencing is an established practice, reviews in other jurisdictions have noted that the rationale for using good character evidence 'is not universally accepted and there are critiques about its use' (Queensland Sentencing Advisory Council, 2024, p. 275).

3.6 Some critics also argue that the use of good character references at sentencing hearings can cause further trauma for victims, due to having to listen to a convicted individual described as a 'good person'. Advocacy groups contend it can re-traumatise survivors and undermine their experience of the trial (Dublin Rape Crisis Centre, 2024). This experience has been described as "secondary victimisation", and research has suggested that it can be a particularly acute experience for victims of sexual abuse or domestic violence, who have had to endure a "unique contest of credibility…during the trial process" (Dowds, 2025, p. 332).

3.7 In light of the trauma that victims can experience when listening to good character references at sentencing, and recognising that courts already have safeguards in place to ensure that good character references do not routinely act as a significant mitigating factor in the most serious cases, in pre-consultation engagement with the Department some stakeholders have questioned the continued evidential value of good character references, particularly in sexual offence cases.

3.8 It has also been suggested that the use of character references at sentencing hearings can undermine the seriousness of sexual offending, by creating the impression the offence was an anomaly or "out of character". It is asserted that this can be problematic because it may downplay the seriousness of the offence

and reinforces rape myths and stereotypes. It may also create the perception of a hierarchy of offenders by focusing on identity and character rather than the offending conduct that led to the conviction (Dowds, 2025, p. 332).

3.9 Some critiques of good character references at sentencing in criminal proceedings have also questioned the value of such character evidence when determining the appropriate sentence the most serious offences. These criticisms highlight that the public perception of an individual is not of direct relevance to the offending behaviour for which they are being sentenced, and in fact can often facilitate such behaviour (Bravehearts, 2025; Lowik, 2024). In respect of this latter criticism, the Commissioner Designate for Victims of Crime for Northern Ireland, Geraldine Hanna, has also suggested that "good character itself is a shield that is often used by perpetrators to help reinforce the silence that is being encouraged or enforced on the victim" (Black, 2026).

3.10 In addition to the potential distress that can be caused, it can also undermine victims' confidence in the justice system. The Victim Survey Report 2025 demonstrated that confidence in the justice system is an issue for victims of crime, as outlined by the following statistics:

- 55% of respondents believed that victims are not fully supported by the Courts;
- 82% of respondents were not confident they would receive justice by reporting a crime; and
- 79% of victims were not confident that the criminal justice system as a whole is fair or effective.

3.11 During pre-consultation engagement, some stakeholders have also questioned the value of good character references as part of the court's assessment of an offender's likelihood to reoffend and prospects of rehabilitation, pointing to the availability of other evidence, such as pre-sentence reports, psychological reports and risk assessments to inform the court's consideration of these issues. In this regard, it is also important to highlight that whilst the legislative reforms in Queensland have restricted the mitigating effect of good character references at sentencing for sexual offences, the reforms have also continued

to provide flexibility for the court to take account of character evidence in mitigation where it is directly relevant to the offender's prospects of rehabilitation and the likelihood of reoffending. Retaining this discretion for the court preserves the ability of the judiciary to take account of all available evidence that may assist in assessing rehabilitation and future risk, and preserves the defendant's ability to present a character reference for consideration by the court alongside all other available evidence.

3.12 In response to some of these criticisms, the use of good character references at sentencing has been reformed in some jurisdictions, most notably in the Republic of Ireland and Australia, as set out in the preceding chapter.

3.13 The model in Ireland requires character references presented at sentencing to be provided in the form of an affidavit and, where evidence is to be given orally before the court, this will be given on oath or by affirmation.

3.14 This model was devised in response criticism of traditional practice, because written references were often unsworn and not subject to challenge. Critics also argued that the absence of challenge may mean that referees were not fully aware of the facts of the case or be overly generous in their assessment of a defendant's character. Supporters of change expressed the view that the requirement for character references to be made by affidavit would encourage referees to "consider more carefully the weight and implications of their references" and ensure that they are "are fully aware of the impact their statements can have on victims and survivors" (Dublin Rape Crisis Centre, 2024).

3.15 The aims of this approach are to improve the reliability of character evidence by requiring referees to formally attest to the truth of their statements, thereby reducing the risk of exaggerated or unsupported claims. It is also intended to promote greater accountability among those providing references, encouraging them to carefully consider both the content of their evidence and the extent of their knowledge of the offender before making representations to the court. In addition, the approach seeks to enhance transparency and scrutiny, as sworn evidence may be tested where necessary, giving the court greater confidence in the information presented. It also addresses concerns that referees may not

fully understand the facts and circumstances of the offence, since the formal process encourages them to reflect more carefully on the case before providing evidence.

3.16 Finally, by ensuring that favourable character evidence is subject to appropriate procedural safeguards, the approach may strengthen victims' confidence in the fairness and integrity of the justice system.

3.17 Prior to the introduction of the reforms, some commentators identified the potential for increased delay as a result of requiring references to be given under oath (McDermott, 2022). It was argued that once given on oath, the reference becomes evidence and allows for cross-examination of the referee by the prosecution, necessitating extra time for such witnesses to be prepared for proceedings, and that the potential requirement for in-person evidence could also lead to delay, although there has been no evidence of any such delays following implementation. Critics also suggested that a more formalised approach risks reducing the availability of mitigating evidence, particularly for defendants who have limited resources or whose referees may be unwilling to engage in a more formal process.

3.18 In New South Wales, where the common law principle that good character evidence should be considered a personal mitigating factor when determining the appropriate sentence has been abolished, it was argued that restricting or abolishing good character evidence as a mitigating factor could promote equality of treatment by ensuring that an offender's community standing, professional reputation or public prominence does not result in a lesser sentence for criminal conduct. Reform of the use of good character references has also been used as a response to concerns that 'good character' evidence "perpetuates social disadvantage at sentencing because its use is not equally available to all offenders" (New South Wales Government, 2026), on the basis that there is a perception that references can be easier to obtain for defendants who are socially well-connected, and more persuasive when written by professionals or public figures, which could potentially create sentencing disparities for similar offending behaviour dependent on the social standing of the defendant.

3.19 It has also been argued that the reforms in New South Wales could also reduce trauma for victims, particularly in sexual offence cases where hearing positive evidence about a convicted person may be distressing. It would further recognise that apparent good character can facilitate offending, especially where a position of trust enables an offender to gain access to victims or avoid suspicion. Furthermore, removing such evidence from consideration could therefore reduce subjectivity and refocus the sentencing exercise on the offender's culpability for the conduct in question.

3.20 However, some critics of the change argued against the reform on the basis that:

- It had the potential to limit judicial discretion and reduce individualised justice;
- Good character evidence has intrinsic mitigating value, and is not merely relevant to the prospects of rehabilitation or reoffending; and
- Could produce unfair outcomes and impede the imposition of a justice sentence.

3.21 Specific concerns were also raised in relation to the potential impact of this change on sentencing for particular offences. For example, in response to the New South Wales Sentencing Council consultation, Domestic Violence New South Wales highlighted potential issues regarding sentencing for domestic violence cases.

3.22 Domestic Violence NSW argued that caution should be exercised before restricting the use of good character evidence in domestic violence cases because such cases are often complex and can involve victim-survivors, particularly women subjected to prolonged coercive control, being charged after engaging in retaliatory or resistant violence. While the organisation acknowledged concerns that genuine domestic abuse perpetrators can exploit a reputation of good character and present themselves as "good guys", it also warned that removing or limiting the availability of good character evidence could disadvantage predominant victims who rely on character references and an absence of prior convictions to obtain outcomes such as a section 10

dismissal[10] and avoid the harmful consequences of a criminal conviction. Accordingly, Domestic Violence NSW did not support the immediate extension of the "special rule" to domestic violence offences and instead called for a broader systemic review of domestic violence legislation and practice. (Domestic Violence New South Wales, 2025)

[10] In New South Wales, a Section 10 dismissal is an order under section 10 of the Crimes (Sentencing Procedure) Act 1999 (NSW) that allows a court to find a person guilty of an offence without recording a conviction.

4. Options for Consideration

4.1 Considering the issues and challenges associated with good character references, the DoJ believes it is important that consideration be given to potential reform of the use of good character references during sentencing proceedings in Northern Ireland. Therefore, the DoJ has identified several options for consultation. These options are as follows:

- Option 1 – Retain the current legal position.
- Option 2 – Require the submission of good character references at sentencing by affidavit.
- Option 3 – Restrict the circumstances in which good character references may have a mitigating effect at sentencing.

4.2 Further detail on these options is set out below.

4.3 In developing the options for consultation, the DoJ has also considered the risks associated with potentially banning the submission of good character references at sentencing, which we are aware has been called for by many stakeholders and members of the public. Having considered the purpose and potential relevance of good character evidence at sentencing, the protective factor that where a deterrent sentence is required, a court can decide that good character references will carry limited weight, and that any reform must accord with the right to a fair hearing under Article 6 of the European Convention on Human Rights (EHCR), the DoJ has developed the following policy proposals with a view to reform, rather than a ban, due to the risk to defendants if this information is not admissible at sentencing hearings.

Option 1: Retain the current legal position

4.4 The use of good character references has become an established practice in common law jurisdictions. These references are primarily used to ensure that there is sufficient information about the defendant available to the court when consideration is being given to the appropriate sentence. Proponents in favour of their continued use argue that individualised justice requires consideration of

the whole person, and ignoring past good character would prevent courts from taking into account an important aspect of the offender's personal circumstances and produce unfair outcomes.

4.5 It is also important to note that both the Gillen Review in Northern Ireland, and the Law Commission in England and Wales, have recently reviewed the law and procedures in sexual offences and neither review recommended any changes to the process in respect of good character references at sentencing.

4.6 Furthermore, the sentencing guidance in Northern Ireland case law contains safeguards to ensure that good character evidence is likely to carry limited weight where a deterrent sentence is required.

4.7 Taking into account these considerations, it may be appropriate to retain the existing arrangements for good character references at sentencing hearings, where the independent judiciary continues to determine the weight to be afforded to these references as part of the sentencing process, within the context of considering the facts and circumstances of each case, and any relevant sentencing guidance.

4.8 However, the question remains as to whether retaining the status quo is appropriate in light of recent criticism and, in particular, the concerns raised around the re-traumatising effect they may have on victims.

4.9 In the absence of legislative reform, the introduction of non-statutory changes may go some way to addressing these concerns. For example, the provision of further legal advice or support to victims may improve their experience at sentencing hearings. The Department would welcome suggestions about any potential non-statutory measures to address these issues.

Option 2: Require the submission of good character references at sentencing by affidavit

4.10 One potential option for reform would be to introduce a requirement that good character references must be provided in the form of an affidavit[11], and where

[11] An affidavit must either be sworn on oath or affirmed by the referee; they can also be called to give evidence about the content of their affidavit.

evidence is to be given orally before the court, this will be given on oath or by affirmation. This approach would be similar to the recent reforms introduced in Ireland. This option would serve to formalise the process and may make it more robust and transparent by increasing accountability, reliability and scrutiny in the use of character references.

4.11 If this approach were to be adopted in Northern Ireland, consideration would also have to be given to the class of offence to which these requirements should apply. In Ireland, these requirements initially only applied to sexual offences when introduced in 2024 but were subsequently extended to all indictable offences in September 2026.

4.12 Based on pre-consultation discussions, the DoJ acknowledges stakeholders' views that if any such requirements are introduced in Northern Ireland, they should apply, in the first instance, to sexual offences and, potentially, cases involving domestic violence. Studies have recognised that the use of good character references at sentencing can be particularly distressing for victims of these offences. However, the DoJ welcomes views on the scope of this option, including whether or not it should apply to a wider range of offences.

Option 3: Restrict the circumstances in which good character references may have a mitigating effect at sentencing

4.13 Another potential option for reform would be to restrict the circumstances in which good character references may be taken into account in mitigation at sentencing, in a way which is similar to the approaches taken in Queensland and New South Wales.

4.14 Evidence provided in mitigation may lead to a reduction in the overall sentence. In practical terms, restricting the circumstances in which good character references may be taken into account in mitigation, means that it would limit the circumstances in which good character references can contribute to a reduction in the overall sentence.

4.15 In Northern Ireland, it is considered that this option could take the form of a statutory provision which would prevent good character references from being taken into account in mitigation for particular offences, unless:

(i) it is relevant to the court's consideration of:

- The offender's prospects of rehabilitation; or
- The risk of the offender reoffending.

OR

(ii) having regard to the particular circumstances of the case, the court considers that it would be in the interests of justice to take the reference into account in mitigation. This element is necessary to ensure that the judiciary retains adequate flexibility to arrive at the appropriate sentence in all cases, particularly where there may be exceptional circumstances which should properly be taken into account.

4.16 This option may have the effect of ensuring that, in certain circumstances, unless a good character reference contains information that is relevant and of practical use within the context of the sentencing exercise, it is unlikely to be capable of contributing to a reduction in the overall sentence.

4.17 As with Option 2, the DoJ acknowledges the views of stakeholders that any such restriction should apply in the first instance to sexual offences and, potentially, cases involving domestic violence, but welcomes views on this issue.

Annex A - Consultation Questions

PLEASE NOTE: ALL QUESTIONS ARE OPTIONAL

We would encourage you to respond to the consultation using the on-line facility on NI Direct / citizen space, accessible via https://consultations.nidirect.gov.uk/doj/good-character-references-in-criminal-proceedings/

Q.1. Name (optional):

Q.2. Email (optional):

Q.3. Organisation (optional):

OPTION 1: Retain the current legal position.

Q.4. Should the current practices around the submission of good character references in sentencing proceedings remain unchanged?

Yes		No		No Opinion		Don't Know	
Please explain your answer:							

Q.5 Do you believe that more support could be provided to victims to improve their experience when good character references are submitted during sentencing proceedings?

Yes		No		No Opinion		Don't Know	
Please explain your answer and, if possible, provide examples of additional support that could be introduced:							

OPTION 2: Require the submission of good character references at sentencing by affidavit.

Q.6. Should the use of good character references at sentencing hearings be formalised by requiring references to be provided in the form of an affidavit[12] by the referee?

Yes		No		No Opinion		Don't Know	
Please explain your answer:							

Q.7. If you answered Yes to Question 6, which type of criminal proceedings should these requirements apply to? (please tick all that apply)

Sexual Offences	
Domestic Abuse Offences	
All Indictable Offences	
Other (please provide more information below)	
Please explain your answer:	

[12] An affidavit must either be sworn on oath or affirmed by the referee; they can also be called to give evidence about the content of their affidavit.

OPTION 3: Restrict the circumstances in which good character references may have a mitigating effect at sentencing.

Q.8. Should the use of good character as a mitigating factor for sentencing in criminal proceedings be restricted?

Yes		No		No Opinion		Don't Know	
Please explain your answer:							

Q.9. If you answered Yes to Question 8, which type of criminal proceedings should restrictions apply to? (please tick all that apply)

Sexual Offences	
Domestic Abuse Offences	
All Indictable Offences	
Other (please provide more information below)	
Please explain your answer:	

Any further comments

Q.10. Is there anything else you would like to add on any aspect of this consultation?

Please provide any additional comments:

Annex B - Privacy Notice – Consultations (DoJ)

Data Controller Name: Department of Justice (DoJ)

Address: Castle Buildings, Stormont, BELFAST, BT4 3SG

Email: SentenceReductionforGuiltyPleas@justice-ni.gov.uk

Telephone: 02890 378617

Data Protection Officer Name: DoJ Data Protection Officer

Telephone: (028) 90378617

Email: DataProtectionOfficer@justice-ni.gov.uk

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the Data Protection Act (DPA) and the EU General Data Protection Regulation (GDPR). The Department of Justice (DoJ) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

Purpose for processing

We will process personal data provided in response to consultations for the purpose of informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We will publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents, but will include the names of organisations responding.

If you have indicated that you would be interested in contributing to further Department work on the subject matter covered by the consultation, then we might process your contact details to get in touch with you.

Lawful basis for processing

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We will only process any special category personal data you provide, which reveals racial or ethnic origin, political opinions, religious belief, health or sexual life/orientation when it is necessary for reasons of substantial public interest under Article 9(2)(g) of the GDPR, in the exercise of the function of the department, and to monitor equality.

How will your information be used and shared

We process the information internally for the above stated purpose. We don't intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance the provisions of the data protection laws.

How long will we keep your information?

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule DoJ Retention & Disposal Schedule .

What are your rights?

- You have the right to obtain confirmation that your data is being processed, and access your personal data
- You are entitled to have personal data rectified if it is inaccurate or incomplete
- You have a right to have personal data erased and to prevent processing, in specific circumstances
- You have the right to 'block' or suppress processing of personal data, in specific circumstances
- You have the right to data portability, in specific circumstances

- **You have the right to** object to the processing**,** in specific circumstances
- **You have rights in relation to** automated decision making and profiling.

How to complain if you are not happy with how we process your personal information

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire, SK9 5AF
casework@ico.org.uk

Annex C - Confidentiality of consultation responses – Freedom of Information Act 2000

1. The Department intends to publish a **summary** of responses following completion of the consultation process.

2. Your response, and all other responses to the consultation, may also be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this public consultation.

3. Subject to certain limited provisos, the Freedom of Information Act gives members of the public a right of access to any information held by a public authority, in this case, the Department. This right of access to information includes information provided in response to a consultation.

4. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

5. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

    - the Department should only accept information from third parties "in confidence" if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;

- the Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

6. Further information about confidentiality of responses is available by contacting the Information Commissioner’s Office (or at https://ico.org.uk/).

Annex D – Bibliography

Araja, E. (2024, November 25). *Character references tell a court you're a good person. Why are convicted rapists allowed to use them?* Retrieved from theconversation.com: https://theconversation.com/character-references-tell-a-court-youre-a-good-person-why-are-convicted-rapists-allowed-to-use-them-240324

Attorney General. (2026, June 5). *Nation-leading 'good character' reforms pass NSW Parliament*. Retrieved from www.nsw.gov.au: https://www.nsw.gov.au/ministerial-releases/nation-leading-good-character-reforms-pass-nsw-parliament

Belton, I. K., & Dhami, M. K. (2024). The role of character-based personal mitigation in sentencing judgments. *Journal of Empirical Legal Studies*, 208-239.

Black, R. (2026, September 22). *Call to ban good character references at sentencing in domestic and sexual cases*. Retrieved from NewsLetter: https://www.newsletter.co.uk/news/courts/call-to-ban-good-character-references-at-sentencing-in-domestic-and-sexual-cases-9142646

Bravehearts. (2025, June). *Good Character Briefing Paper.* Retrieved from bravehearts.org: https://bravehearts.org.au/wp-content/uploads/2025/09/Good-Character-References_Briefing-Paper-062025.pdf

Collett Read LLP Criminal Lawyers. (2024, June 7). *What is a Character Reference Letter in Canadian Criminal Law?* Retrieved from https://collettreadllp.com/: https://collettreadllp.com/know-your-rights/what-is-a-character-reference-letter-in-canadian-criminal-law/

Collett Read LLP Criminal Lawyers. (2025, February 24). *Character Evidence in Ontario Criminal Trials: What You Should Know*. Retrieved from Collett Read LLP Criminal Lawyers: https://collettreadllp.com/know-your-rights/character-evidence-in-ontario-criminal-trials-what-you-should-know/

Commisioner for Victims of Crime. (2025). *Victim Survey Report .* Retrieved from https://www.cvocni.org/files/cvocni/2025-06/RPT-VictimSurveyReportJune2025-25062025.pdf

Cornell Law School - Legal Information Institute. (n.d.). *18 U.S. Code § 3553 - Imposition of a sentence*. Retrieved from https://www.law.cornell.edu/uscode/text/18/3553

Courtprep. (n.d.). *Justice Process - Sentencing*. Retrieved from Courtprep.ca: https://courtprep.ca/en/justiceprocess/sentencing.html

Department of Justice (Northern Ireland). (2026). *Victims and Witnesses of Crime Strategy 2026-2032.* Department of Justice (Northern Ireland). Retrieved from https://www.justice-ni.gov.uk/sites/default/files/2026-

03/Victims%20and%20Witnesses%20of%20Crime%20Strategy%20-%20Final%20Tagged.pdf

Domestic Violence New South Wales. (2025, February 14). Good Character at Sentencing. New South Wales Sentencing Council. Retrieved from https://sentencingcouncil.nsw.gov.au/documents/our-work/good-character/GC119.pdf

Dowds, E. (2025). Challenging the role of good character evidence in rape trials: Monsters, myths and mitgation. *The International Journal of Evidence & Proof, 29(4)*, 323-344.

Dublin Rape Crisis Centre. (2024, July 18). *Dublin Rape Crisis Centre*. Retrieved from Dublin Rape Crisis Centre: https://www.drcc.ie/news-resources/character-references-for-sexual-offenders-must-now-be-vouche/

Gillen, S. J. (2019). *Report into the law and procedures in serious sexual offences in Northern Ireland.*

Hickey, S., & Nedim, U. (4, November 2023). *Can Good Character References Be Used During Sentencing Proceedings for Child Sex Offences?* Retrieved from Sydney Criminal Lawyers: https://www.sydneycriminallawyers.com.au/blog/can-good-character-references-be-used-during-sentencing-proceedings-for-child-sex-offences/

Irish Legal Blog. (n.d.). *Character and Similar Fact*. Retrieved from Irish Legal Blog: https://legalblog.ie/character-and-similar-fact/

Irish Legal News. (2023, July 2023). *Bill strengthening laws around consent and character references in court published*. Retrieved from Irish Legal News: https://www.irishlegal.com/articles/bill-strengthening-laws-around-consent-and-character-references-in-court-published

Jacobsen, J., & Hough, M. (2007). *Mitigation: the role of personal factors in sentencing.* Prison Reform Trust.

JuraVox Editorial Team. (2025, June 25). *A Comparative Analysis of Sentencing in Federal versus State Courts*. Retrieved from Juravox: https://juravox.com/sentencing-in-federal-versus-state-courts/

LegalClarity Team. (2026, May 12). *18 USC 3661: How Courts Use Information at Sentencing*. Retrieved from Legalclarity.org: https://legalclarity.org/18-usc-3661-how-courts-use-information-at-sentencing/

Lowik, V. (2024, November 25). *Character references tell a court you're a good person. Why are convicted rapists allowed to use them?* Retrieved from The Bulletin: https://thebulletin.net.au/news/66787-character-references-tell-a-court-you%E2%80%99re-a-good-person-why-are-convicted-rapists-allowed-to-use-them

Maguire, M. (2024, July 18). *People who give character references for sexual offenders can now be cross-examined in court*. Retrieved from The Journal:

https://www.thejournal.ie/calls-to-end-character-references-for-sex-offenders-as-victims-decry-humiliating-practice-6439260-Jul2024/

Masstang LLP Barristers & Solicitors. (n.d.). *Canadian Criminal Law Glossary - Mitigating Factors*. Retrieved from Masstang LLP Barristers & Solicitors: https://www.masstsang.com/glossary/mitigating-factors/

McDermott, S. (2022, July 18). *Experts call for 'careful consideration' of proposals to cross-examine references in rape trials*. Retrieved from The Journal: https://www.thejournal.ie/character-references-rape-trials-5817904-Jul2022/

Moffett, L. (2016). Victim impact reports in Northern Ireland: Victims' voices influencing sentencing? *Criminal Law Rvuew*, 478-484. Retrieved from https://pureadmin.qub.ac.uk/ws/portalfiles/portal/37668093/Victim_impact_reports.pdf

New South Wales Bar Association. (2025, February 25). Consultation Paper - Good character at sentencing. New South Wales Sentencing Council. Retrieved from https://sentencingcouncil.nsw.gov.au/documents/our-work/good-character/GC161.pdf

New South Wales Government. (2026, February 1). *New South Wales Government*. Retrieved from New South Wales Government: https://www.nsw.gov.au/ministerial-releases/nsw-to-abolish-good-character-at-sentencing

NSW Sentencing Council. (2025). *Good Character at Sentencing.* Sydney: New South Wales Sentencing Council. Retrieved from https://sentencingcouncil.nsw.gov.au/documents/our-work/good-character/Report_Good_Character_at_Sentencing.pdf

Queensland Sentencing Advisory Council. (2024). *Sentencing of Sexual Assault and Rape - The Ripple Effect: Final Report.* Brisbane: Queensland Sentencing Advisory Council. Retrieved from https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0009/818604/Sentencing-of-Sexual-Assault-and-Rape-Final-Report.pdf

Roberts, J. V. (2011). *Mitigation and Aggravation at Sentencing.* Cambridge: Cambridge University Press.

Rothstein, P. F., & Imwinkelried, E. J. (2024). The Future Scope of the Character Evidence Prohibition: The Contextual Statutory Construction Argument that Could Finally Force the Policy Discussion. *Criminal Law Bulletin*, 127-164.

Scottish Sentencing Council. (2021, September 22). *The sentencing process: Sentencing guidline.* Retrieved from Scottish Sentencing Council: https://www.scottishsentencingcouncil.org.uk/media/jtbhlsre/the-sentencing-process-guideline-d.pdf

Sentencing Council. (2013). *Crown Court sentencing survey annual publication 2012.* Retrieved from https://sentencingcouncil.org.uk/publications/crown-

court-sentencing-survey/crown-court-sentencing-survey-annual-publication-2012-full-report/

Sentencing Council. (2024). *Aggravating and mitigating factors in sentencing guidelines and their expanded explanations; Research Report.* Sentencing Council.

Silva, F. (2026, February 5). *LSJ Online*. Retrieved from https://lsj.com.au/articles/nsw-to-abolish-good-character-at-sentencing/

The Law Commission. (2025). *Evidence in sexual offence prosecutions: a final report.* London: The Law Commission.

Tirkalas, K. (2024, October). The Influence of Victim Impact Statements and Offender Character on Sentencing and Parole Decisions. Canada: Saint Mary's University, Halifax, Nova Scotia. Retrieved from https://library2.smu.ca/xmlui/bitstream/handle/01/32050/Tirkalas_Kimberley_MASTERS_2024.pdf?sequence=1

Wu, Z. (2007). Examing Good Character as a Mitigating Factor in Canadian Sentencing. Kingston, Ontario, Canada: Queen's University. Retrieved from https://queensu.scholaris.ca/server/api/core/bitstreams/d94f5475-1925-4d55-8c29-017047795cbf/content