

## Court reports, character references and support letters

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### 1 What is a character reference, court report or support letter?

There is a subtle difference between a character reference, a court report, and a support letter, although these terms are often used interchangeably.

A *character reference* is a letter that includes an opinion about a person who is before a court.

A *court report* would typically be more detailed and written by a professional person (e.g. a social worker or psychologist).

A *support letter* would usually be less detailed than a court report and would often outline how a young person is engaged with a service, and what you or that service is able to offer the young person going forward.

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### 2 How are character references, court reports and support letters used?

Character references, court reports and support letters can be used in different types of court proceedings. This fact sheet focuses on their use in *criminal proceedings*.

They are often used in *sentencing* proceedings after an offender has pleaded (or been found) guilty.

They may also be used to help someone get *bail* or to change their bail conditions.

They may also be used as part of an application for *diversion* under section 14 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (or section 20BQ of the Commonwealth *Crimes Act*), for example to set out a support plan or demonstrate how a person is engaging with services.

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### 3 Tips for writing a court report or support letter

#### 3.1 Find out the purpose of the report

Who is asking for the report and how will they use it? For example, is it for sentencing, or for a mental health/cognitive impairment diversion application, or is it to help a young person get bail? What are the charges? What are the likely outcomes in court?

If possible, speak to the young person's lawyer. Ask them about what sort of issues it is useful for you to include in the report. Also check with the young person or their lawyer about anything that is inappropriate to include.

#### 3.2 Who to address it to

Find out who to address the report to. You would usually address it to *The Presiding Magistrate* (at the Children's or Local Court), or to *The Presiding Judge* (at the District or Supreme Court).

### **3.3 Who else is writing a report?**

Find out who else (if anyone) is writing a report and try to get some idea of its content.

If it is for sentencing, there may be a background report prepared by Youth Justice NSW or a sentencing assessment report prepared by the adult Community Corrections service.

Usually it helps if your report is consistent with other reports, but don't repeat everything, and don't hesitate to say something different to the other reports if you have greater knowledge of your client or a different perspective.

You can also put your knowledge and views about the client directly to the officer who is writing the background report or sentencing assessment report. With the client's permission, contact Youth Justice or Community Corrections and let them know you can help them by providing relevant information.

### **3.4 How long should the report be?**

This depends on the purpose of the report. For busy magistrates who have to read a lot of material, succinct is usually best. One or two pages is a good length.

However, a more detailed report may be necessary for serious matters, or if your client has complex needs worthy of detailed comment.

If your report is lengthy, use headings to make it easier for the magistrate or judge to read.

### **3.5 Make it personal**

Magistrates and judges tire of seeing the same standard report again and again, with just the young person's name changed.

While it is useful to work from a template, and while many young people's circumstances may be depressingly similar, make sure the report conveys a sense of your client as an individual.

### **3.6 Only talk about what you know**

Try to limit yourself to things you have personal knowledge of.

Sometimes you have to rely on what the client has told you (e.g. about their family background). This is OK but don't try to pass it off as your first-hand knowledge.

If the young person has been diagnosed with a mental health condition or a cognitive impairment, it helps if you're able to say who made the diagnosis and when. If the client doesn't have a formal diagnosis, it's okay to say you suspect they may have a mental illness or cognitive impairment, but don't purport to make a diagnosis that you're not qualified to make.

### **3.7 Be positive, but don't ignore the truth**

Of course you will want to emphasise the positive aspects about the young person, to help them get bail or a more lenient sentence or a diversionary outcome.

However, don't sound like you are making excuses or justifying the offence, and don't be afraid to raise negative points. A balanced report will have more credibility with the court.

### **3.8 Practicalities**

Be aware of the limits on using generative AI (see 4.3 below).

Put the report on your organisation's letterhead if you have one.

Remember to *sign and date* the report.

Give the report/reference/letter to the young person or to their lawyer. Usually reports are prepared and emailed to the lawyer in advance, ideally in plenty of time for them to print it out for court.

If you are handing it to the young person or lawyer at court, it helps to bring the original signed letter and two copies (the original to be handed up in court, a copy for the prosecutor, and a copy for the lawyer to keep).

If you are in court when the magistrate or judge reads the report, be prepared to answer questions if asked (although this does not happen very often).

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## 4 What to cover in the report

### 4.1 Who are you?

Outline early on:

- who you are, including any relevant qualifications
- something about the service you work for
- how long you have been working with the young person and in what capacity

### 4.2 Make it clear that you know why the young person is in court

This is really important. It shows that you have made your assessment of the client in light of the current circumstances. Sometimes you may even be able to say that their behaviour in committing the offence is out of character.

### 4.3 Generative AI

In early 2025, the NSW Supreme Court and the NSW District Court issued practice notes regarding the use of generative artificial intelligence (AI) in the preparation of evidence including character references and affidavits.

Character references (and other reports) should reflect a person's own knowledge. Generative AI must not be used to generate the contents of affidavits, witness statements, or character references, although preparatory steps are acceptable.

An affidavit, witness statement or character reference prepared for District Court or Supreme Court proceedings must contain a disclosure that generative AI was not used in generating its content. It is also good practice to include this in any document prepared for the Local or Children's Court.

### 4.4 Background information to put the offence in context (if the report is for sentencing)

If you are preparing a report for a *bail* application, you would not usually go into details about the alleged offence.

If you are preparing a report for *sentencing*, ideally it should include some information that provides some background or context to the offence.

This may include:

- family background
- housing situation
- education or employment history
- any disability or health issues
- alcohol and other drug problems

Be sure to explain how these factors have contributed to the offence. Do not include large amounts of background information if it is not relevant – in some cases it may harm your client's case. If in doubt, discuss this with the young person's lawyer.

#### **4.5 Don't say the person denies committing the offence (if the report is for sentencing)**

At sentencing, your client has already pleaded guilty or the court has already found them guilty.

Now isn't the time to say they didn't do it! This is called *traversing the plea* and can lead to lots of headaches at court.

If your client is adamant about their innocence and you know that the matter is for sentence, you should make sure they get legal advice about appealing against the finding of guilt or withdrawing their guilty plea.

#### **4.6 Rehabilitation and support**

Although the magistrate or judge may be very sympathetic about a young person's difficult background, this will not be enough to ensure a good sentencing outcome. The court will want to see your client taking steps towards rehabilitation to reduce the likelihood of re-offending.

Therefore, it is helpful to include comments about:

- the young person's feelings of remorse or regret for what they did;
- any steps they have taken or plans they have made to seek treatment, solve problems or change their lifestyle;
- your future involvement with the young person – what you or your organisation can offer them and how this will assist with their rehabilitation.

#### **4.7 Treatment plan/support plan (if the report is for an application for diversion under section 14/section 20BQ)**

If your client is making an application to have matters dealt with under the mental health/cognitive impairment diversionary provisions, you may be asked to provide a letter of support. This will be read together with other reports/material confirming the client's diagnosis.

Sometimes you may be asked to outline a proposed treatment plan/support plan, or to confirm that you are willing to be a "responsible person". The client's lawyer should provide guidance on what is required.

#### **4.8 Factors relevant to bail (if the report is for a bail application)**

Before releasing someone on bail (or varying existing bail conditions), the court will want to feel confident that the person will appear in court, will not interfere with witnesses or evidence, will not be a danger to the community, and will not commit further serious offences while on bail.

Your report should try to address these concerns by providing evidence that the client is reliable and/or well-supported.

If you are trying to get bail conditions varied, you should include specific information about why the variation is necessary or desirable (e.g. the client has a 10pm curfew but now has a job which involves working night shifts).

It is best practice not to comment on the alleged offending in a letter of support for a bail application. Often, the client will not have entered a plea/pleas yet, and the strength of the case against them may not be known at that point.

#### **4.9 Making suggestions and recommendations**

It is not your role to tell the judge or magistrate what to do. However, it is okay for you to suggest appropriate sentencing options, recommend suitable programs, and outline how you or your agency can help.

##### **The Shopfront Youth Legal Centre Updated August 2025**

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*The Shopfront Youth Legal Centre is a service provided by Herbert Smith Freehills Kramer, in association with Mission Australia and The Salvation Army.*

*This document was last updated in August 2025 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time. This document provides a summary only of the subject matter covered, without the assumption of a duty of care. The summary should not be relied on as a substitute for legal or other professional advice.*

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