

had been tendered to the court and made available to senior counsel for practitioner A's client at the sentencing hearing. **Mr A** retained the victim impact statement and subsequently made it available to an insurer who was investigating a claim made by Ms B.

The procedure adopted by the court is that, apart from the prosecution, the defence and the court, victim impact statements should not be available to any other person. Defence counsel has the opportunity to peruse the statement and obtain instructions but the statement must be returned to the prosecutor. Whilst the offender would be made aware of the contents of the statement, for the purpose of obtaining instructions, he or she would not be given a copy.

The Committee's view is that it is clear from the nature of the document and the provisions of Sections 24 and 26 of the *Sentencing Act* 1995 that a victim impact statement is a confidential document for the sole use of the court sentencing an offender. **The same restrictions and obligations which are applicable to pre-sentence reports are applicable to victim impact statements.** In the case of pre-sentence reports, these are made available for perusal by counsel for the prosecution and the defence on the basis of an undertaking that the report will not be copied, in whole or in part, to any other person and that the report or copy will be returned to the Clerk of Arraignment at sentencing.

*Letter to the editor from Ms D Howell, Law Complaints Officer, Western Australia Legal Practitioners Complaints Committee, requesting publication of the following statement:*

#### Disclosure of victim impact statements

**The** Legal Practitioners Complaints Committee recently considered a complaint that a practitioner, **Mr A**, had acted unprofessionally by providing a victim impact statement to a third party.

The complainant, Ms B, was the author of the statement and the victim of a criminal offence committed by *Mr A's* client. The statement

If a practitioner wishes to provide a copy of a victim impact statement to a person, the practitioner must first obtain the consent of the court to the disclosure and fully inform the court of the circumstances of the request, including the attitude of the victim to the request. It is inappropriate to seek the release of a copy of the statement without first giving the victim the opportunity to be heard.

The Committee reminds practitioners of the role they play as officers of the court in maintaining the integrity of the sentencing process by maintaining the confidentiality of victim impact statements.