



6 October 2017

Ms Erin Gough
Policy Manager
Law Reform & Sentencing Secretariat
Department of Justice

Dear Ms Gough

Victims' involvement in sentencing

Thank you for your email of 12 September concerning this matter.

The Consultation Paper is helpful and provides a useful review of practices in other States in relation to how Victim Impact Statements are used.

I would, however, oppose any legislative restraint on a sentencing judge to remove portions of such a statement which are irrelevant, inflammatory or insulting and which contain unqualified medical opinion or like matters. I am conscious of the importance of these statements to victims and the assistance they provide to judges in the sentencing process. However, that would be undermined if irrelevant and inflammatory material is allowed to be included. The problem would not be solved by cross-examination. It would be unfair, both to the victim that he or she be cross-examined on this material and, indeed, could be unfairly prejudicial to the offender who is faced with the choice of letting the material go forward unchallenged, or cross-examining the victim and thereby potentially prejudicing his position in the mind of the sentencing judge.

Such statements should only be able to be tendered by the prosecutor conducting the sentencing hearing on behalf of the Crown.

Yours sincerely

T F Bathurst AC
Chief Justice of New South Wales