



VICTORIAN BAR

ETHICS COMMITTEE BULLETIN

BARRISTERS AND THE MEDIA

1. The Ethics Committee wishes to draw attention to the provisions of the Rules which prohibit a barrister from expressing personal opinions in cases in which the barrister is involved.
2. In the view of the Committee, the fundamental importance of the independence of the Bar is reflected in the Rules which prohibit a barrister from expressing personal opinions in cases in which the barrister is involved.
3. For example, Rule 44 provides that a barrister must not even in court express a view on evidence or a material issue which conveys the barrister's personal opinion on the merits of that evidence or issue.
4. This is also reflected in Rules 76 and 77 which relate to barristers' dealing with the media. They relevantly provide that:
 - (a) a barrister must not publish or take any steps towards the publication of any material concerning any current or potential proceeding which appears to or does express the opinion of the barrister on the merits of the current or potential proceeding or on any issue arising in the proceeding other than in the course of genuine educational or academic discussion on matters of law.
 - (b) subject to (a) the barrister may publish or assist in publishing material concerning current proceedings by answering unsolicited questions limited to information as to the identity of the parties or of any witnesses already called, the nature of the issues in the case, and the client's intentions as to further steps in the case.
5. The Committee considers that "proceeding" for the purpose of the Rule includes applications before tribunals and disciplinary proceedings.
6. The Committee notes the very limited communications between barristers and the media allowed by Rule 77.
7. In the view of the Committee, caution ought always be exercised by a barrister in making public statements about cases in which the barrister is involved outside of court or tribunal hearings.

Helen Symon QC.
Chair

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76. A barrister must not publish or take any step towards the publication of any material concerning any proceeding which:

- (a) is known to the barrister to be inaccurate;
- (b) discloses any confidential information; or
- (c) appears to or does express the opinion of the barrister on the merits of a current or potential proceeding or on any issue arising in such a proceeding, other than in the course of genuine educational or academic discussion on matters of law.

77. A barrister must not publish or take any step towards the publication of any material concerning any current proceeding in which the barrister is appearing or any potential proceeding in which a barrister is likely to appear, other than:

- (a) a barrister may supply answers to unsolicited questions concerning a current proceeding provided that the answers are limited to information as to the identity of the parties or of any witness already called, the nature of the issues in the case, the nature of the orders made or judgment given including any reasons given by the court and the client's intentions as to any further steps in the case; or
- (b) a barrister may, where it is not contrary to legislation or court practice and at the request of the client or instructing solicitor or in response to unsolicited questions supply for publication:
 - (i) copies of pleadings in their current form which have been filed and served in accordance with the court's requirements;
 - (ii) copies of affidavits or witness statements, which have been read, tendered or verified in open court, clearly marked so as to show any parts which have not been read, tendered or verified or which have been disallowed on objection;
 - (iii) copies of transcript of evidence given in open court, if permitted by copyright and clearly marked so as to show any corrections agreed by the other parties or directed by the court; or
 - (iv) copies of exhibits admitted in open court and without restriction on access.