



Justice  
Victims Services

# Victim impact statement

information package





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This information package relates to the preparation of victim impact statements to be given in the Local Courts, Children's Courts, District Courts and Supreme Court.

The information was jointly prepared by NSW Office of the Director of Public Prosecutions, NSW Police Force and Victims Services, NSW Department of Justice.

Further copies may be obtained from

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W: [www.victimsservices.justice.nsw.gov.au](http://www.victimsservices.justice.nsw.gov.au)

This information package may also be accessed on our website.

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*Reinforcing the NSW Government's commitment to victims of crime with the Victims Rights and Support Act 2013.*

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## What is a victim impact statement (VIS)?

A victim impact statement is a written statement about the impact that a crime has had on the victim, once an offender has been convicted and is to be sentenced. A victim impact statement can provide the victim with an opportunity to participate in the criminal justice process by informing the court about the effects of the crime on them.

In the case of a primary victim, the statement relates to the personal harm suffered as a direct result of an offence. The personal harm suffered relates to actual physical bodily harm, or psychological or psychiatric harm.

In the case of a family victim, the statement relates to the impact of the death of the primary victim on the members of the immediate family of the primary victim.

Legislation allows a victim impact statement to be received and considered in certain cases in the Supreme Court, the District Court, the Local Court, and the Children's Court. A victim impact statement may be received by the court in relation to an offence that involves:

- actual or threatened violence (including sexual assault)
- the death of, or any actual physical bodily harm, to any person.

A victim impact statement is given to the court after a person has been convicted and before the person is sentenced and relates to the charges for which the offender has been convicted.

Once a victim impact statement has been accepted by a court, a victim (or their representative) is entitled to read all or part of the statement to the court at such time as the court determines after conviction, but prior to sentencing.

A victim has the right to information and assistance for the preparation of a victim impact statement to ensure that the full effect of the crime on the victim is placed before the court.

## Who may make a victim impact statement?

The following people are able to make a victim impact statement:

1. A primary victim, who is either:
  - a person against whom the offence was committed who has suffered personal harm as a direct result of the offence; or
  - a witness to the act of actual or threatened violence, the sexual offence, the death or the infliction of the physical bodily harm concerned, who has suffered personal harm as a direct result of the offence.
2. A family victim is a member of the immediate family of a primary victim who has died as a direct result of the offence. A family victim may be:
  - the victim's spouse, or
  - the victim's de-facto spouse or same sex partner, being a person who has cohabited with the victim for at least 2 years, or
  - a person to whom the victim is engaged to be married, or
  - a parent, grandparent, guardian or step-parent of the victim, or
  - a child, grandchild, or step-child of the victim or some other child for whom the victim is the guardian, or
  - a brother, sister, half-brother, half-sister, step-brother or step-sister of the victim.
3. A representative of the victim:
  - where a victim is incapable of providing information for a victim impact statement, a family member or other representative may act on behalf of the victim.

The victim impact statement may be written either by a primary victim, a family victim, a victim's representative or by a qualified person, for example, a counsellor, psychologist, social worker or medical specialist.

## **When should a victim impact statement be prepared?**

A victim impact statement is given to the court after the offender has been convicted. The victim must let the prosecutor know as soon as possible if he/she wants a victim impact statement to be given to the court.

The victim impact statement can only refer to those offences that the offender has been charged AND convicted of in the court. If you are unsure, the prosecutor can clarify what the specific offences are for which the offender is being sentenced.

Arrangements for the preparation of the victim impact statement may then be made. The prosecutor may arrange for the victim impact statement to be prepared or the victim may make his or her own arrangements.

A victim impact statement may be prepared in one of the following ways:

- written by the victim
- written by the victim but with some assistance from a relative, friend or support person
- if the victim is incapable (because of age, impairment or other reason) of writing or providing information for a victim impact statement, a member of the victim's immediate family, someone with parental responsibility, or any other representative, may write the statement
- written by a counsellor with whom the victim has had contact as a result of the offence, and for whom writing a victim impact statement is considered part of their role as a counsellor
- a professional report prepared by a qualified person designated by the prosecutor.

## **Professional reports**

In some circumstances, a professional report may be required by either the victim or the prosecutor. This may take the form of a medico-legal report or a social work/psychological assessment. The emphasis of this report must be on the impact of the offence and the personal harm suffered by the victim.

Please note that all formal requirements referred to in this information package also apply to professional reports.

The prosecution may arrange for qualified reports to be written where these are required. Please contact the prosecutor for further information.

## **A victim impact statement is voluntary**

It is the victim's choice whether they wish to make a victim impact statement. No one may make a statement on behalf of a victim if the victim objects to the statement being made.

The court may not assume that because there is no victim impact statement that there was little or no harm suffered by the victim as a result of the crime.

## **A victim impact statement may only relate to the crime(s) of which the offender has been convicted**

The victim impact statement describes the direct effects of the crime on the victim. The court will only consider the effect of offences of which the offender is convicted.

If the victim impact statement refers to other offences for which the offender was not convicted by the court, those parts cannot be allowed. If it is unclear as to the offences for which the offender was convicted, the victim or author of the statement should speak to the prosecutor before preparing the statement.

## **When may a victim impact statement be received and considered by a court?**

The court may accept and consider a victim impact statement at any time after it convicts, but before it sentences an offender. In some instances, the court may need to consider the possibility of an adjournment in order to give the victim time to prepare a victim impact statement.

The final decision about whether to submit the victim impact statement or parts of the victim impact statement to the court, is made by the prosecutor.

If the primary victim has died as a direct result of the offence, the court must receive a victim impact statement given by a family victim and acknowledge its receipt, and may make any comment on it that the court considers appropriate.

In the case of family victims the prosecutor may make an application to the court for the victim impact statement to be considered in connection with the determination of the sentencing.

The court will only consider the victim impact statement in connection with the determination of the sentence to be imposed if it considers that it is appropriate to do so.

## **Reading out a victim impact statement**

Once a court has accepted a victim impact statement, the victim or victim's representative is entitled to read out part or all of the statement to the court. The reading of the victim impact statement to the court is optional and voluntary.

If the victim wishes to read out their statement or have their victim impact statement read to the court, they should discuss this with the prosecutor before the victim impact statement is given to the court.

Generally the judge or magistrate will decide from where in the court the victim may read out their victim impact statement. The judge or magistrate will accommodate the wishes of individual victims as far as practicable.

A victim can have a support person at court if they wish, when they read the victim impact statement.

If a victim of sexual assault or a vulnerable victim, such as a child or intellectually impaired person had been entitled to give their evidence using closed-circuit television, then the victim may read out their victim impact statement using closed-circuit television.

## **What information should be contained in the victim impact statement?**

The victim impact statement must contain accurate information about the personal harm suffered – that is, for example, any physical injury, short or long-term and any psychological emotional harm, short or long-term. If the victim is preparing his/her own statement, he/she may attach any relevant medical reports, photographs, images or drawings that support the statement.

It is important that the victim or the author of the report is aware that the defence is entitled to cross-examine him/her about the contents of the statement. This may happen because the offender does not agree with parts of the statement.

The victim impact statement must not contain anything that is offensive, threatening, intimidating or harassing towards the offender. The victim impact statement is about the impact on the victim – it is the victim's opportunity to participate in the criminal justice process by fully informing the court about the effects of the crime on the victim.

## **Attendance at court**

The prosecutor will give the victim impact statement to the court and will inform the victim if he/she is required at the court. If the victim is not required by the court to attend, the victim may still attend if he/she wishes. If the victim wishes to read the victim impact statement to the court he/she will need to be in attendance at the court at the relevant time.

If the victim is unsure about whether he/she needs to be at court for the sentencing or the time to attend, he/she should check with the prosecutor prior to the sentencing.

This applies particularly to a victim who wishes to attend court to read out the victim impact statement.

## Amending the victim impact statement

A victim impact statement may be amended by the prosecutor in consultation with the person who wrote the statement before it is handed up to the court.

The final decision about whether to submit the victim impact statement, or parts of the victim impact statement to the court is made by the prosecutor.

## Points to consider before preparing a victim impact statement

Before preparing a victim impact statement, a victim or author of the statement should be aware that when a victim impact statement is given by the prosecutor to the judge or the magistrate, it becomes part of the court case. As a result:

- A victim impact statement may be made available to the offender, the offender's legal representative, or any other person, but the offender will be prevented from retaining copies of the statement.
- The victim or the author of the statement is subject to possible cross-examination about the contents of the victim impact statement. This may happen if the offender does not agree with parts of the statement.
- There is no legal requirement for a victim impact statement to be treated confidentially.

There is also no legal requirement to prevent publication. Once the victim impact statement has been handed to the court it becomes part of the court file and may become a public document, except in relation to children.

The media may gain access to the victim impact statement through the court registry and may report on the contents of the victim impact statement that is read out or referred to in court.

## Talking to the prosecutor

The prosecutor or relevant support officer will provide information about preparing the statement.

The original signed copy of the victim impact statement should be faxed or handed to the prosecutor. The victim or author of the statement should keep a personal copy.

If the victim impact statement is emailed to the prosecutor you will need to sign this before it can be given to the court.

It is important that the victim impact statement is given to the prosecutor before the sentencing hearing and preferably one week before the sentencing hearing. This is because:

- a victim impact statement may not be handed to the court after the court has sentenced the offender
- the prosecutor needs time to read the victim impact statement and let the victim know if any changes need to be made, or anything taken out.

The victim or author of the statement should check the exact date and location of the sentencing hearing with the prosecutor.

If the victim or their representative wishes to read out their victim impact statement at court he/she should discuss this with the prosecutor as soon as possible.

## Formal requirements of a victim impact statement

As well as containing details of the personal harm suffered, the victim impact statement must:

- identify the victim or victims
- include the full name of the person who wrote the statement and be signed and dated by that person
- include reference to the fact that the victim does not object to the statement being given in court (where the statement has been written by the victim's representative or a qualified person), and be signed by the victim or the victim's representative to that effect (see sample cover sheet at the end of this booklet)
- be in writing and presented in a legible format. It may be either typed or handwritten. It must



be on A4 size paper and except with the leave of the court, be no longer than 20 pages in length (including medical reports, photographs, drawings or other annexures).

If the family victim is the person preparing the victim impact statement, it must state who the primary victim is and the nature and duration of the relationship between the primary and family victim (unless the family victim is a relative by blood or marriage)

If the victim's representative is the person preparing the victim impact statement, it must state who the primary victim is and the nature and duration of the relationship between the primary victim and the victim's representative (unless the victim's representative is a relative by blood or marriage)

**Please note** that only **one** victim impact statement may be made for **each** primary or family victim.

## Writing your victim impact statement

There are a number of different ways of writing a victim impact statement, depending on what is easiest for you.

The victim impact statement can be written in paragraphs or dot points, in letter style or using headings such as physical injuries and emotional impact.

The victim impact statement must be on A4 paper and may be up to 20 pages long. Statements commonly range from being a short paragraph to a few pages long.

You can include photographs, drawings or other images if that is a more effective way for you to convey the harm you have suffered as a result of the crime.

The crime itself and the impact of crime are different for everyone. This is why your victim impact statement must be written in your own words.

Impacts of the crime you may wish to tell the court about could include:

- physical injuries, impact on health, medical treatment
- emotional impact and wellbeing
- psychological or mental health impact

- changes in your behaviour, attitudes or how you think about things
- changes in your normal coping skills
- changes in your social life or impact on relationships with others
- impact on your financial or housing situation, education or employment.

The victim impact statement is not an opportunity to express your feelings towards the offender and it is not a letter to the offender. It is also better not to write about the facts of the case, make assumptions regarding the offender's behaviour or discuss court outcomes in your victim impact statement.

You may write about how the crime impacted on you at the time of the offence and/or any ongoing effects on your life. Some people may write a little about their history and then compare their life before and after the crime. The thoughts, feelings and experiences must be your own as the victim of crime, rather than those of others.

## Information and assistance for victims, their representatives and service providers who assist victims of crime

For further information about preparing or reading a victim impact statement, victims, their representatives and service providers may approach a range of people, such as:

- in cases prosecuted by the police, the police officer in charge of the case or the Police Prosecutor
- in cases prosecuted by the Office of the Director of Public Prosecutions (DPP), the DPP Prosecutor or Witness Assistance Service Officer
- a counsellor who works with victims of crime
- victim support services and victims support groups
- the Victims Access Line on 1800 633 063.

For assistance with interpreting, please contact the Translating & Interpreting Service (TIS) on 131 450.

## **Victims who require additional assistance**

Some victims may require additional assistance in order to be able to write a victim impact statement, for example:

- Victims who are children may write a victim impact statement or have a statement written by a qualified person on their behalf. It is important to consult with children about whether they wish to make a victim impact statement and that they know it is their choice. For children who wish to read their victim impact statement to the court themselves, the prosecutor should be consulted about reading the victim impact statement using closed circuit television.
- If the victim requires assistance with writing or reading out their victim impact statement because they have a disability or special need, assistance may be arranged.
- If the victim is incapable of writing a victim impact statement, the statement may be prepared on their behalf by a representative of the victim or by a qualified person who is designated by the prosecutor. The author of the statement should give the reasons for the victim being incapable.
- If the victim or their representative cannot write or speak English, an accredited interpreter and/or translator may be arranged to assist with the preparation and/or reading of their victim impact statement.

Victims of crime, and those assisting victims who wish to prepare a victim impact statement, may contact the Victims Access Line on 1800 633 063 (Freecall).

For assistance with interpreting, please contact the Telephone Interpreting Service (TIS) on 131 450.

See over for contact details of agencies who can provide assistance.

## **Relevant legislation**

*Victims Rights and Support Act 2013*

*Crimes (Sentencing Procedure) Act 1999 No. 92*

*Crimes (Sentencing Procedure) Regulation 2010*

*Children (Criminal Proceedings) Act 1987*



## Agencies that may be able to help you prepare a victim impact statement

### Victims Services

Level 1, Justice Precinct Offices,  
160 Marsden Street, Parramatta NSW 2150

Victims Services conducts the Victims Access Line where victims or their supports can ring to obtain information, support and referral about a range of issues including information on victim impact statements and the Charter of Victims Rights.

Phone 1800 633 063  
Hours 8am to 6pm, Mon to Fri  
Email [vs@justice.nsw.gov.au](mailto:vs@justice.nsw.gov.au)  
Website [www.victimsservices.justice.nsw.gov.au](http://www.victimsservices.justice.nsw.gov.au)

### Enough is Enough Anti-Violence Movement Inc

Shop 2/10-14 Boyle Street, Sutherland NSW 2232

Phone (02) 9542 4029  
Email [team@enoughisenough.org.au](mailto:team@enoughisenough.org.au)  
Web [www.enoughisenough.org.au](http://www.enoughisenough.org.au)

### Homicide Victims Support Group (Aust) Inc

Level 2, 239 Church Street, Parramatta NSW 2150

Phone (02) 8833 8400  
Toll free 1800 191 777  
Email [info@hvsgnsw.org.au](mailto:info@hvsgnsw.org.au)  
Web [www.hvsg.com.au](http://www.hvsg.com.au)

### Mission Australia Court Support Service

19 Denham Street, Surry Hills NSW 2010

Phone (02) 9356 0604  
Email [courtsupport@missionaustralia.com.au](mailto:courtsupport@missionaustralia.com.au)

### Victims of Crime Assistance League Inc NSW (VOCAL)

Level 1, 432 Hunter Street Newcastle NSW 2300

Phone (02) 4926 2711  
Email [info@vocal.org.au](mailto:info@vocal.org.au)  
Web [www.vocal.org.au](http://www.vocal.org.au)

### Witness Assistance Service (WAS), Office of the Director of Public Prosecutions (DPP)

Office of the Director of Public Prosecutions  
175 Liverpool Street, Sydney NSW 2000

There is a WAS Officer at each of the offices of the DPP who can provide additional information:

#### Head office

Sydney (02) 9285 8606  
Toll free (outside Sydney)\* 1800 814 534  
Email [was@odpp.nsw.gov.au](mailto:was@odpp.nsw.gov.au)  
Web [odpp.nsw.gov.au](http://odpp.nsw.gov.au)

#### Sydney metropolitan offices

Campbelltown (02) 4629 2811  
Parramatta (02) 9891 9800  
Penrith (02) 4721 6100

#### Regional offices

Dubbo (02) 6881 3300  
Gosford (02) 4337 1111  
Lismore (02) 6627 2222  
Newcastle (02) 4929 4399  
Wagga Wagga (02) 6925 8400  
Wollongong (02) 4224 7111

\* For toll free callers wanting to speak to a regional WAS officer, please ask the Head Office switchboard operator to put you through to the regional office where the WAS officer is located.

The inside back cover of this guide is a tear-off page that may be used as a cover sheet to attach to your victim impact statement



## Charter of Victims Rights (Victims Rights and Support Act 2013)

If you are a victim of crime, you have the following rights under the Charter of Victims Rights.

### 1 Courtesy, compassion and respect

You will be treated with courtesy, compassion, cultural sensitivity and respect for your rights and dignity.

### 2 Information about services and remedies

You will be told as soon as possible about the different services that can help you, including counselling and legal services.

### 3 Access to services

If you need medical, counselling, and legal help you will be able to get it if it is available.

### 4 Information about investigation of the crime

If you ask, you will be told about how the police investigation is going. But in some cases there may be some things the police can't tell you.

### 5 Information about prosecution of accused

Prosecution is about taking the accused to court for the crime. This is done by the police or, in serious cases, the Director of Public Prosecutions.

- As a victim, you will be told:
  - what the charges are or why the accused has not been charged;
  - any decision of the prosecution to change or drop charges;
  - the date and place of the court hearing;
  - the final court result, including any appeal or gaol sentence given.
- If the prosecution is thinking about changing or dropping the charges they will have a talk to you about this if the crime:
  - was a serious sex crime, or
  - caused you physical harm, psychological or psychiatric harm.

But the prosecution don't have to talk to you if:

- you don't want to talk about it, or
- they can't find you.

### 6 Information about trial process and role as witness

If you have to give evidence as a witness in a trial you will be told about how the trial works and what you have to do.

### 7 Protection from contact with accused

While your case is in court you will be protected from contact with the accused and the defence witnesses.

### 8 Protection of identity of victim

You can keep your address and phone numbers private unless the court says otherwise.

### 9 Attendance at preliminary hearings

You do not have to go to any committal hearing (like a mini trial) or other court business before the trial unless the court says you must.

### 10 Return of property held by State

If the police or prosecution took any of your goods as evidence you have the right to get it back as soon as possible.

### 11 Protection from accused

If you need protection tell the police or prosecution when the accused applies for bail.

### 12 Information about special bail conditions

You will be told about any special bail conditions the accused is given, which are meant to protect you or your family, like a condition which says the accused must not contact you.

### 13 Information about outcome of bail application

If you were the victim of sexual assault or other serious assault you will be told if the accused gets bail or not.

### 14 Victim impact statement

In some cases you may be able to tell the court about how the crime has affected you and you will be given help and support to do this. This is called giving a 'victim impact statement.'

### 15 Information about impending release, escape or eligibility for absence from custody

If the offender is in gaol you can be told if the offender is going to be released from gaol soon, has escaped gaol or is on day release.

### 16 Submissions on parole and eligibility for absence from custody of serious offenders

You can have a say if the offender applies for parole.

### 17 Financial assistance for victims of personal violence

If you have been injured as a result of serious personal violence, you may be eligible for financial assistance under the Victims Support Scheme.

### 18 Information about complaint procedure where Charter is breached

You can make a complaint if you think your rights under the Charter have not been met. You can ask for information about how to do this.

**Victim impact statement cover sheet** *Crimes (Sentencing Procedure) Act 1999, Section 30*

This tear-off page contains a guide that may be used as a cover sheet to attach to your victim impact statement

Name of victim .....

If you are a family victim:

*Name of the deceased primary victim* .....

*Your relationship to the deceased victim* .....

Name of offender.....

Charges to which this statement relates:

.....  
.....  
.....

Sentencing court..... Sentencing date ..... / ..... / .....

*Attached is the victim impact statement. This statement is true to the best of my knowledge and belief. I do not object to this statement being given to the court.*

Signed..... Dated ..... / ..... / .....

If this victim impact statement was written by someone other than the primary or family victim, please provide the following details:

Name of author .....

Relationship to victim.....

Please explain why you have prepared the victim impact statement on the victim's behalf:

.....  
.....  
.....  
.....  
.....

**Note:** Use of this cover sheet is optional. However if not used, all the relative information above should be included at the beginning of the victim impact statement and the statement needs to be signed.



