

Victim impact statements

Guide

What is a victim impact statement?

A victim impact statement tells the court about how a crime has impacted you. It is a chance for you to talk about how you feel and what has happened to you because of the crime.

Who can make a victim impact statement?

If you are a victim of crime, you may be eligible to make a victim impact statement if:

- the offender has been found guilty of the crime
- the offender is going to be sentenced for the crime
- the act was proven, but the accused is not criminally responsible because of mental health impairment or cognitive impairment
- you are the **primary victim** or a **family victim**
- you have suffered **personal harm** because of the crime.

You may be a **primary victim** if:

- the crime was committed against you
- you witnessed the crime.

You may be a **family victim** if you are a member of a primary victim's immediate family, and the victim has died as a result of the crime.

An **immediate family member** includes the victim's:

- spouse, fiancé, or de facto (lived together for 2 years or more),
- parent, step-parent or guardian
- grandparent or step-grandparent
- child, step-child or other child the victim was the guardian of
- grandchild or step-grandchild
- brother, sister, half-brother, half-sister, step-brother or step-sister
- aunt, uncle, nephew, or niece
- close family or kin according to the kinship system of Aboriginal or Torres Strait Islander culture
- extended family or culturally recognised family, if the prosecutor is satisfied the victim was close to this person
- any other person, if the prosecutor is satisfied the victim was close to this person.

Personal harm can include emotional or psychological, physical, economic or social harm:

Emotional or Psychological

- changes to your wellbeing, view of the world, enjoyment of life
- emotions, such as anger, fear, sadness, shame or anxiety
- low self-esteem
- addiction or eating disorders
- memory loss or lack of concentration
- lifestyle changes (for example, trouble sleeping, different eating or exercise habits)
- any treatment you require as a result of the crime (for example, psychologist).

Physical

- any injuries you had as a result of the crime (for example, wounds, scars, loss of limbs, infections or disease)
- any ongoing medical treatment you require
- how those injuries or ongoing medical treatment have affected your life (for example, chronic pain, impact on work, sport or leisure)

Economic (financial)

- loss of income
- if an injury has affected your ability to work
- any expenses (for example, home security) and cost of medical treatment caused by the crime, or lost or damaged property
- travel expenses caused by the crime (for example, travel for medical treatment).

Social

- changes to work, study or lifestyle commitments, family or social life
- how safe you feel because of the crime
- changes to your relationships with others (for example, friends, family, community)

A victim impact statement might not be possible in all court cases. You can ask the prosecutor if you can make a victim impact statement.

What is the benefit of writing a victim impact statement?

A victim impact statement will help the court to understand the impact the crime has had on you before a sentencing decision is made.

A victim impact statement is also an important opportunity for you to have your voice heard and to share your experience in a way that is empowering for you.

When do I start writing a victim impact statement?

The prosecutor will tell you when you should start writing a victim impact statement. You should only start writing a victim impact statement after the offender is convicted. The victim impact statement must be completed before sentencing of the offender in all cases.

How much time do I have to write my victim impact statement?

You will need to allow enough time for the prosecutor to check your victim impact statement before they give it to the court. Your statement can be sent to the prosecutor without being signed, and then signed at a later date.

Where possible, you should try to submit your victim impact statement **at least 10 days before the sentencing hearing**.

In some courts, sentencing hearings occur quickly. This may mean you may have less than 10 days to prepare a victim impact statement after the offender is found guilty.

In the **Local Court**, you may only have a few hours to prepare your victim impact statement. In the District Court or Supreme Court, sometimes you may only have a few days.

You can talk to the prosecutor or Witness Assistance Service (WAS) in the Office of the Director of Public Prosecutions (ODPP) about how much time you have to write the victim impact statement.

What will the court do with my victim impact statement?

The court will consider any eligible victim impact statement after it has convicted the offender and before it sentences the offender. The court must acknowledge when they have received your victim impact statement. The court may also make comments about the victim impact statement.

Do I need to make a victim impact statement?

You do not have to make a victim impact statement if you do not want to.

If you decide not to make a victim impact statement, it will not have any impact on the sentence and the court will not assume the crime had little or no impact upon you.

Who can help to prepare a victim impact statement?

Sometimes a victim cannot prepare a victim impact statement because of their age, impairment or other reasons.

If a victim cannot write their victim impact statement, the following representatives can write or assist them to write their statement:

- the ODPD prosecutor or Witness Assistance Service (WAS), if the matter is being handled by the Director of Public Prosecutions
- a counsellor or other qualified person
- the victim's parent
- an immediate family member of the victim
- the victim's carer
- a person who is important in the victim's life or any other person chosen by the victim.

If a victim cannot gather evidence to support a victim impact statement, the following representatives can help them gather relevant information:

- the victim's parent
- an immediate family member of the victim
- the victim's carer
- a person who is important in the victim's life or any other person chosen by the victim.

Can I make a victim impact statement if the defendant becomes a forensic patient?

A person may be a forensic patient if a court has found in relation to them:

- act proven but not criminally responsible because of mental illness or cognitive impairment
- unfit to be tried for the offence and a limiting term has been imposed.

A limiting term is the period for which the person is to be supervised, treated and/or detained as a forensic patient and will be similar in length to the sentence the person would receive had they not been declared unfit to stand trial.

In these circumstances you are still able to submit a victim impact statement. The court must acknowledge receipt of your victim impact statement and may take it into consideration when considering the conditions imposed on the release of the offender. Your statement can include:

- the personal harm you suffered because of the crime
- the risk posed to you by the offender
- conditions that may be imposed on the offender if they are released
- any other matter you believe should be considered.

The Mental Health Review Tribunal (the Tribunal) will consider the case and make decisions about the forensic patient's treatment, care and detention. A court must provide a copy of your victim impact statement to the Tribunal.

A forensic patient will be reviewed by the Tribunal on a regular basis. The Tribunal is to acknowledge your victim impact statement at each review hearing of the forensic patient.

As a victim of crime, you have a right under the Charter of Victims Rights to access information and assistance to prepare your victim impact statement.

The best place to go for help depends on where the court case is being heard.

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Who can help?

If the court case is in the Local Court or Children's Court

If the court case is in the Local Court, you can talk to the police officer in charge of the case or the police prosecutor. However, note that police prosecutors cannot suggest the content of a victim impact statement or assist in the actual preparation of the statement. If the matter is being handled by the Director of Public Prosecutions (DPP), you can contact the prosecutor or the Witness Assistance Service (WAS) in the Office of the Director of Public Prosecutions (ODPP) for assistance (see numbers below).

If the court case is in the District or Supreme Court

If the court case is being heard in the District or Supreme Court, you can contact the prosecutor or the WAS for assistance:

Sydney Office: (02) 9285 8606	Campbelltown Office: (02) 4629 2811
Parramatta Office: (02) 9891 9800	Penrith Office: (02) 4721 6100
Dubbo Office: (02) 6881 3300	Gosford Office: (02) 4337 1111
Lismore Office: (02) 6627 2222	Newcastle Office: (02) 4929 4399
Wagga Wagga Office: (02) 6925 8400	Wollongong Office: (02) 4224 7111
Email: was@odpp.nsw.gov.au	Website: www.odpp.nsw.gov.au

If the case is referred to the Mental Health Review Tribunal

If you are a victim of a forensic patient, you can contact the **Specialist Victims Support Service (SVSS)** for support in writing a victim impact statement:

Specialist Victims Support Service: 1800 633 063
Email: svss@justice.nsw.gov.au

General information for victims

Victims Services can provide you with information, support and referral about a range of issues including information on victim impact statements and the Charter of Victims Rights.

Victims Access Line: 1800 633 063
Aboriginal Contact Line: 1800 019 123
Hours: 9am to 5pm, Monday to Friday
Email: vs@justice.nsw.gov.au
Website: www.victimsservices.justice.nsw.gov.au

If you would like to use an interpreter, please call the **Translating and Interpreting Service** on 13 14 50 and ask them to transfer you to **Victims Access Line** on 1800 633 063. You will not be charged for this service.

Victim impact statements

Preparing your statement

There are a few rules about what can and cannot be included in a victim impact statement.

You can use the information below and the templates attached to this booklet to help you.

What form can my victim impact statement take?

Your victim impact statement must be:

- typed or in writing
- easy to read
- on A4 pages
- no longer than 20 pages in length, including any attached documents.

You can provide photographs, drawings or other images in your victim impact statement if you want. You should also provide documents such as medical reports and receipts or invoices for medical treatment, particularly if your treatment is ongoing. This can show the court how the crime has impacted you.

What can I talk about in the victim impact statement?

Your victim impact statement can include details of any harm you have suffered as a direct result of the crime. This includes the examples of personal harm outlined on Page 1 and 2 of this booklet.

If they are involved in your case, you may wish to contact the Witness Assistance Service (WAS), which has guides available designed to get you thinking about the impact the crime has had on you.

What has to be in the victim impact statement?

What you write in your victim impact statement will depend on whether the statement is prepared by a primary victim, a representative of the victim, or a family victim.

If you are a primary victim preparing your own victim impact statement, you must include:

- your full name.

If you are a representative preparing the victim impact statement for the primary victim, you must include:

- the name of the victim or victims it relates to
- your full name
- confirmation that the victim or victims do not object to the statement being provided to the court, the signature of the victim, unless you are preparing the victim impact statement for someone who cannot prepare the statement because of age or impairment. If this is the case, you will need to sign the document.

If you are a family victim, you must include:

- the name of the primary victim or victims it relates to (your immediate family member) the duration of the relationship between you and the primary victim (unless you are related by blood)
- your full name.

What should I avoid in my victim impact statement?

It is important that the victim impact statement is about how you or your immediate family have been impacted by the crime.

If you are a representative, the victim impact statement must be about how the victim and their immediate family has been impacted by the crime.

There are some things that cannot be included in your victim impact statement which might result in it being edited by the prosecutor, challenged by the defence or rejected by the court. **You should not include:**

- anything offensive, threatening, intimidating or harassing
- suggestions or views about the sentence the court should give the offender
- suggestions about other things the sentencing court should consider
- any detailed description of the crime
- information about other crimes committed by the offender or offences the offender was convicted of
- comments on the offender's personality or character.

Can my victim impact statement be changed?

The prosecutor will review your victim impact statement before it is submitted to the court. The prosecutor is the person responsible for submitting the victim impact statement to the court.

The prosecutor may need to change your victim impact statement if it includes information that is not allowed under the legislation.

The prosecutor will tell you if the statement needs to be edited, has been challenged by the defence or is rejected by the court. If this is the case, the prosecutor will work with you to make changes so your victim impact statement follows the legislation.

The prosecutor cannot provide the final victim impact statement to the court without your permission.

Who sees my victim impact statement before the sentencing hearing?

Copies of the victim impact statement will be given to the prosecutor and the judge or magistrate overseeing the case.

The prosecutor is required to provide a copy of the victim impact statement to the **offender's lawyer**.

The offender's lawyer cannot keep the victim impact statement. They must destroy any copies or images of the victim impact statement at the end of sentencing proceedings.

If the offender does not have a lawyer, **the court may give the offender supervised access to the victim impact statement**. The offender cannot keep or make copies of the victim impact statement.

Can I object to my victim impact statement being given to the court?

You can object to the victim impact statement being given to the court.

If you object to the victim impact statement being given to the court, the court will not receive or consider the victim impact statement.

Victim impact statements

Giving your statement

When do I give my victim impact statement?

The victim impact statement will be considered at the sentencing hearing. A timing of the sentencing hearing will vary depending on the type of court:

- at the District and Supreme Court, this is usually on a different day to the trial
- in the Local Court, it is usually after the magistrate decides whether the accused is guilty.

Do I have to read out my victim impact statement to the court?

Reading out all or part of the victim impact statement to the court is optional and voluntary.

You can read the victim impact statement, or you can talk to your prosecutor about nominating a representative to read it for you.

You should talk to the prosecutor if you only want to read part of the victim impact statement.

If your victim impact statement is read out in an open court, the media can report on it without your permission. The media may try to access your victim impact statement from the court file.

Will the court consider my victim impact statement if I do not read it out?

Yes. If you do not want your victim impact statement to be read out to the court, you can still submit it to be considered by the court. In this case, the prosecutor will provide your statement to the court. Even if you do not read it out, the media may try to access your victim impact statement from the court file.

What is available to make it easier for me to give my victim impact statement?

A number of arrangements have been put in place to assist victims to feel more comfortable when reading their statement in court. In some cases, it is up to the court to allow access to the arrangements. The prosecutor can help you to request arrangements:

Support person

When the victim impact statement is read out, you can have one or more support persons near you. Your support person(s) may be a family member, a friend, or a person assisting you through a court support service.

Closed court

A closed court is when a hearing is not open to the public. If you gave evidence in a closed court, you are able to read your victim impact statement in a closed court.

If you did not give evidence in a closed court, you can still ask to read your victim impact statement in a closed court. The court will consider a range of factors when deciding whether or not to approve this request.

Closed-circuit television (CCTV)

If you gave evidence using CCTV, then you may also read your victim impact statement using CCTV.

If you did not give evidence using CCTV, you can still ask to read your victim impact statement using CCTV. This may only be possible if the facilities are available.

Can my victim impact statement be questioned or challenged?

The offender's lawyer retains the right to cross examine you on the contents of your victim impact statement. This is only in certain circumstances and happens rarely. If you are going to be cross-examined, the prosecutor will let you know in advance. The prosecutor will work to avoid cross-examination where possible, usually by making changes to the statement or getting more evidence to support.

Victim impact statements

Checklist

The following checklist will guide you through each step you need to take to put together your statement.

- Talk to the prosecutor about your options for preparing a victim impact statement.**
 - Can you make a victim impact statement for your case?
 - How long will you have to prepare the victim impact statement?
 - Do you want a representative to help you with the victim impact statement?
- Request or locate documentation that may assist with your victim impact statement.**
 - Do you need to get documents from a medical professional?
 - Do you need to get receipts or other documents?
- Write the victim impact statement.**
 - You can use the attached template.
- Provide the draft victim impact statement to the prosecutor to review or edit.**
 - If possible, try to provide the victim impact statement 10 days before the sentencing hearing. The prosecutor will tell you when they need the victim impact statement by.
- Submit the final victim impact statement to the prosecutor.**
 - If possible, ten days before the sentencing hearing.
 - It can be submitted to the prosecutor in person, by email or by post.
 - It does not have to be signed at this point.
- Talk to your prosecutor about how you want to deliver your victim impact statement.**
 - Do you want to read your victim impact statement out loud in the court?
 - Do you want someone else to read it out loud for you?
- Talk to your prosecutor about what arrangements can be made for you to deliver your victim impact statement.**
 - Do you want to read your victim impact statement in a closed court?
 - Do you want to read your victim impact statement using CCTV?
 - Do you want a support person to be with you while you read your victim impact statement?

Victim impact statements

Coversheet

1. Name of victim(s)
2. Name of offender
- 3a. Charges of which the offender was found guilty
- 3b. Sentencing court (for example, Local, District)
- 3c. Sentencing date (*dd/mm/yyyy*)
- 4a. Author of statement
- 4b. If you are not the Primary Victim, what is your relationship (if any) to the victim and how long have you known them?

- 4c. Reason for preparing the victim impact statement on the victim's behalf (age, incapacity etc.)

- 4c. Reason for including evidence on the victim's behalf (age, incapacity etc.) What documents have been added?

5. Would you like your victim impact statement to be read aloud in court?
 - No
 - Yes – I want my victim impact statement to read aloud in court by:
 - Me
 - A Police Prosecutor, if the matter is being handled by the NSW Police Force
 - A representative
 - I am undecided – I will decide at a later time (please discuss with the prosecutor)

Attached is the victim impact statement of:

The statement is true to the best of my knowledge and belief.

I do not object to this statement being given to the court.

Signature

Name of victim or representative

(please print)

Date signed

Victim impact statements

Template

Opening comments

Emotional suffering or psychological harm

Now that the crime has happened:

- What emotions and feelings do you feel because of your experience (for example, sadness, anger, fear, shame)?
- Have there been any changes to your wellbeing (for example, trouble sleeping or nightmares, addiction or eating disorders)?
- How will its impact change your life in the future?
- Are you getting any treatment (for example, psychologist or counsellor)?

Victim

Offender

Court

Prosecutor

Victim impact statements

Template

Physical harm

As a result of the crime:

- Do you have any physical injuries (For example, wounds, scars, infections or disease)? If so, how severe were those injuries?
- How have those injuries impacted your life?
- Did you require medical treatment, or do you require any ongoing medical treatment?
- Do you know when treatment will end?

Victim

Offender

Court

Prosecutor

Victim impact statements

Template

Economic (financial) loss

As a result of the crime:

- Have you been prevented from working or has your work been impacted?
- Have you had to make any new purchases or replace any items because of the crime that you have had to pay for?
- Have you had to travel long distances to be a part of the criminal justice process?
- Were there any costs to you for medical treatment?
- Has immediate family lost work because they need to care for you?

Victim

Offender

Court

Prosecutor

Victim impact statements

Template

Social harm

As a result of the crime

- How have your work or study commitments changed?
- How has interaction with your family or social life changed?
- How safe do you feel with your life and your living arrangements?
- How have your relationships changed because of the crime?
- How have your family's relationships changed?

Victim

Offender

Court

Prosecutor

Victim impact statements

Template

General comments

- How will your life be different into the future?
- How do you feel you will cope with the changes the crime has made to your life?
- What do you miss most about the life you led before the crime?
- What do you miss the most about your loved one?

Victim

Offender

Court

Prosecutor

Victim impact statements

Template

I have attached the following documents:

Before giving your victim impact statement to the prosecutor, check over your statement and see whether it complies:

Do

Write about how the crime has impacted you and your immediate family. This may include:

- Emotional or psychological harm
- Physical harm such as injuries
- Social harm and harm to relationships
- Economic and financial loss

Do not

Do not include:

- Anything offensive, threatening, intimidating or harrassing
- Suggestions or views about the sentence
- Detailed descriptions of the crime
- Descriptions of the offender's personality or other crimes committed by the offender.

Victim

Offender

Court

Prosecutor