



VICTIM IMPACT STATEMENTS (VIS)

When an accused person pleads guilty or is found guilty of charges laid against them, they then become known as an offender.

After an offender has been convicted but before they are sentenced, legislation allows in certain circumstances (the *Crimes (Sentencing Procedure) Act 1999*) the victim an opportunity to give the court a written statement. This statement is known as a 'Victim Impact Statement'. A victim impact statement might not be possible in all court cases. The police prosecutor or Office of the Director of Public Prosecutions (ODPP) can advise a victim if they are eligible to make a victim impact statement.

A victim impact statement is voluntary. If a victim decides 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 no impact on the victim.

A victim impact statement allows a victim to tell the court about how a crime has impacted them. It is an opportunity for the victim to tell the court how they feel and what has happened to them because of the crime. Whilst a police officer may not suggest the content of your victim impact statement, they may provide you with information on how to ensure your victim impact statement complies with legislation.

A victim should only start writing their victim impact statement after the offender is convicted. It must be completed before the sentencing of the offender. All victim impact statements need to be checked before they are given to the court. The officer in charge of the investigation or prosecutor should ensure that all material contained in a victim impact statement complies with the legislation. Where possible, victims should try to submit their victim impact statement at least 10 days before the sentencing hearing, however, this is not always possible.

If a victim is unable to prepare a victim impact statement due to their age, impairment or other reasons, the following representatives can assist victims to write their statement:

- The ODPP prosecutor or Witness Assistance Service (WAS), if the matter is being handled by the Office of 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.

Victim impact statements can also be made if the defendant becomes a forensic patient and the court has found the act proven but that the defendant was not criminally responsible because of mental illness or cognitive impairment or if the court has found that the defendant is unfit to be tried for the offence and a limiting term has been imposed.



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A victim impact statement must be typed or in writing, easy to read, on A4 pages and no longer than 20 pages in length, including any attached documents (such as: photographs, drawings, medical reports and receipts or invoices for medical treatment).

The victim impact statement will be reviewed before it is submitted to the court. The prosecutor may need to make changes if the content of the victim impact statement does not comply with the legislation. The victim must provide permission before the victim impact statement is given to the court.

Whilst the offender's lawyer retains the right to cross examine the victim on the contents of the victim impact statement, this can only occur in certain circumstances and rarely happens. The prosecutor will let the victim know in advance if this is going to occur. The prosecutor will work to avoid cross-examination where possible.

Once a victim statement is accepted by the court, the reading of the victim impact statement to the court is optional and voluntary. The statement can be read out by the victim, an immediate family member of the victim or representative of the victim. It cannot be read out by the prosecutor.

Before preparing a victim impact statement, it is important to know that when it is accepted by the court it becomes part of the court case. This means that the victim or author of the statement could be subjected to possible cross-examination, the offender can read the statement (but not keep a copy), the statement becomes a public document (except in relation to children) and the media may gain access to the statement and report on the contents of the statement that are read out or referred to in court.

For more information on making a victim impact statement in the local, district or supreme court visit the Victims Services website: <https://www.victimsservices.justice.nsw.gov.au/>