



VICTIM IMPACT STATEMENTS/REPORTS:

A Booklet for Victims of Crime March 2011

1. What is a Victim Impact Statement?

A **Victim Impact Statement** is a statement, either by you, the victim of the offence, or sometimes by a family member. The statement should explain to the judge the effect that the offence has had on the victim's life.

What should a Victim Impact Statement cover?

Your statement should include an account of the effect of the offence on your physical, emotional, psychological and financial wellbeing and any other effect which the offence has had on your life

At what stage does the judge see my Victim Impact Statement?

Your account should be given to the sentencing judge after conviction and before sentencing. The Victim Impact Statement must relate only to the offences of which the defendant (the accused person) has been convicted.

Do I have to give a Victim Impact Statement?

Do I have to tell the Court about the impact of the crime myself?

Under our current law, you do not have to give a Victim Impact Statement. However, if you apply to speak to the court, the judge does have to hear what you have to say about how the offence affected you. When the judge sentences a defendant for an offence where you have supplied a Victim Impact Statement or report, the judge has to take into account the effects of the offence on you. The judge if he/she feels it is necessary, can also listen to any witness tell their story, or hear any speech made about these effects.

Background to Victim Impact Statements

Victim Impact Statements were used informally in the Criminal Justice System before the law introduced them formally under Section 5 of the Criminal Justice Act 1993. Section 5 has been amended under the provisions of Part 2 of the Criminal Procedures Act 2010. Part 2 of the 2010 Act is titled "Impact of Crime on Victim".

NOTE THAT: a **Victim Impact Statement** and a **Victim Impact Report** are different. A **Victim Impact Statement** is a statement made directly by the victim to the court, either orally or in writing, while a **Victim Impact Report** is a report written by another person assessing the effects of the offence on the victim. Both are allowed under Section 5 of the Criminal Justice Act 1993 as amended.

The Report should be attached to the Victim Impact Statement and presented to the Court as an appendix to the Statement, unless of course the judge orders otherwise.

Throughout this booklet, any information about Victim Impact Statements applies to Victim Impact Reports, unless otherwise stated.

The victim of crime has a right to be heard and the Judge must consider any effect of the offence of conviction on the victim when contemplating sentence (Section 5 as amended).

2. Who Can Make/Supply a Victim Impact Statement/Report?

- The victim of the offence .
- Family member: sometimes this is possible instead of the victim (see below).

Sometimes a family member can give an account to the court of the impact of the crime instead of the victim. These situations are set out in Section 5 (3) as amended. The definition of a 'family member' is broad.

A family member can be:

- A spouse or partner.
- A child, grandchild, parent, grandparent, brother, sister, uncle, aunt, niece or nephew of the person.
- A person acting as the parent of the person.
- A dependant of the person.
- Any other person whom the court considers to have a close connection with the person.

When can a family member give a Victim Impact Statement instead of the victim?

There are only a few situations where this is possible. They are:

1. Where the victim of the offence **is a child under the age of 14**, the child or his or her parent or guardian may give evidence about the effect of the offence on the child OR
2. Where the victim of the offence **is a person with a mental disorder (not resulting from the offence)** the person or a family member may give evidence as to the effect of the offence on that person OR
3. Where the victim of the offence **is a person with a mental disorder (not resulting from the offence), who is a child**, the person or his or her parent or guardian may give evidence as to the effect of the offence on that person OR
4. Where the victim of the offence **is a person who is not able to do so as a result of the offence**, a family member of the person may give evidence about the effect of the offence on that person and on his or her family members OR
5. Where the victim of the offence **has died as a result of the offence**, a family member of the person may give evidence as to the effect of the offence on the victim between the commission of the offence and his/her death (where relevant), and on the family members of the victim.

What happens if more than one family member wants to give a Victim Impact Statement?

If more than one family member wants to give evidence as to the effects of the offence concerned, the court may order the family members to choose one or more family members to give that evidence. Where the family members fail to agree which member should be the one to do that, the court can choose to hear from one or more family members as it sees fit.

Who can write a Victim Impact Statement?

The Victim Impact Statement may be written either by you, the victim, or sometimes by a family member. The Victim Impact Report may be written by a qualified person such as counsellor, psychologist, medical practitioner etc.

As above, unless the judge says otherwise, a Counsellor's Report should always be attached to the Statement as an Appendix.

3. Offences on which a Victim Impact Statement can be made

A victim can only supply a Victim Impact Statement if the offence is:

- A sexual offence (within the meaning of the Criminal Evidence Act 1992).
- An offence involving violence or the threat of violence to a person.
- An offence under the Non-Fatal Offences against the Person Act 1997.
- An offence consisting or attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of one of the above.

Are there any offences which should NOT be mentioned in the Victim Impact Statement?

Yes. The Victim Impact Statement can only refer to those offences that the offender has been charged with and convicted of in the court.

4. Contents of the Victim Impact Statement

The sentencing judge must take account of any effect of the offence on the victim, if it is one to which section 5 (2) applies.

What should the Victim Impact Statement cover?

The Victim Impact Statement can take into account (but is not limited to), the:

- physical,
- psychological,
- financial,
- emotional, and
- educational.

effects that the offence has had on you, the victim. The information supplied has to be accurate and reliable and if necessary should stand up to questioning by the defendant's lawyers.

Is there any formal information which should always be in the Victim Impact Statement?

Yes. The Victim Impact Statement should

- identify the victim,
- contain an acknowledgement that the victim does not object to the statement being given to the court,
- include the full name of the person who wrote the statement and
- be signed and dated by that person.

If written by someone other than the victim it should clearly identify the victim and the nature of the relationship between the victim and the person writing the report.

Is there a standard Victim Impact Statement form which I should fill in?

There is no standard Victim Impact Statement form, and no official guidelines on how they should be written or on what information they should contain.

What should I concentrate on when I write the Victim Impact Statement?

The Victim Impact Statement or report should focus on the impact of the offence for which the defendant is being sentenced, and not on any other offence also charged and/or tried but on which the defendant was not convicted. The sole purpose of the Victim Impact Statement is to describe the impact of the offence of conviction. It is not its purpose to re-present or rewrite the book of evidence or to try to prove that the defendant is guilty of any offence other than the one/those on which he was convicted

Is there anything I should try to avoid when I write the Victim Impact Statement?

Any person writing a Victim Impact Statement must take great care to avoid putting in anything that might be seen as inappropriate “prejudice” against the convicted person by the sentencing judge. **General negative comments, such as personal abuse or racist comments, about the convicted person are undesirable and unfair.** The convicted person has a right to question anyone making such statements in the witness box. Also your opinion on the appropriate sentence to be passed should not be included in the Victim Impact Statement.

What other things will the judge consider besides the Victim Impact Statement, when he/she comes to sentence the person who committed the crime?

The general impact of a crime on a victim is a factor in sentencing, but the nature of the offence and the offender's personal circumstances are the key issues, because criminal law is an action between the state and the offender, rather than between the offender and the victim. Take care to make sure that the convicted person is not in any way unfairly prejudiced as a result of anything contained in a Victim Impact Statement. It is one thing for a victim to describe the effects of the offence in vivid and emotive terms – this is **allowed**. It is quite another to claim that a more serious offence has been committed or that the convicted person has committed more offences than seems to be the case from his guilty plea or jury verdict – **this is not allowed**.

Is it my responsibility to give in the Victim Impact Statement to the Court?

No. The prosecution is normally responsible for giving in the Victim Impact Statement to the court. The prosecution also has to ensure that a Victim Impact Statement which does not confine itself to the impact of the offence of conviction on the victim is either taken back or changed.

Victim Impact Statements must set out the impact of the crime on the victim, but should not be allowed to include anything which goes beyond setting out the full range of impacts of that crime on the victim.

Victim Impact Statements and the Criminal Law

A Victim Impact Statement is subject to the legal rules just like any other evidence in a criminal case. A victim who uses his/her rights under s5 of the Act of 1993 and who goes beyond the proper use of these rights can be punished by the law in the ordinary way.

The right to make a Victim Impact Statement is independent of both prosecution and defence. Before the sentencing hearing begins the victim may tell the Court that he/she wishes to give evidence. The prosecution and defence can then ask the victim questions about what he/she has said.

Procedure in relation to Victim Impact Statements

Currently the defendant's lawyers are given a copy of the Victim Impact Statement in advance: this allows them to raise any objection they may have regarding the contents.

Once the Victim Impact Statement is accepted, the victim or the victim's representative may 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. Sometimes the victim impact evidence can be given via television link, see below.

4. New Restrictions brought in by the 2010 Act

The 2010 Act allows Judges to ban or restrict broadcasting or publication of the Victim Impact Statement, or any part of it. If there is no such ban or restriction, the Victim Impact Statement becomes part of the court file and may become a public document, unless it relates to a child or children.

5. Absence of a Victim Impact Statement

The law does not allow the judge to assume that if there is no Victim Impact Statement given, the crime in question has had little or no effect on the victim or on his/her family.

6. New Special Provisions re Video Link

Children and people suffering from a "mental disability" will be allowed to give a statement via video link.

A child, a person with a mental disorder, or any other person with the permission of the court, is allowed to make a Victim Impact Statement by live television link (Section 5 of the 2010 Act).

7. New Special Provisions re "Intermediary" or third person

Section 6 of the 2010 Act allows any questioning of a child or a person with a mental disorder about his or her Victim Impact Statement to be done via an "intermediary" or a person other than the victim. The "intermediary" will be appointed by the court. The court may appoint an "intermediary" where the age or the mental condition of a child or a person with a mental disorder is such that it is in the interest of justice that the questions be put through an "intermediary".

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