



Ministry
of Justice

Making a Victim Personal Statement

Victims have a right to explain how a crime has affected them

A guide for all criminal justice practitioners

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Part 1

About this Guide

Crime affects people in different ways, whether physically, emotionally, psychologically, or in any other way. Some victims may cope and recover quickly, while others may need more help or support.

This guide is for anyone who might be involved in the Victim Personal Statement (VPS) process – including police officers and investigators, as well as staff from the Crown Prosecution Service (CPS), Witness Care Units and the courts. It particularly focuses on helping police officers to explain to victims what the VPS is and what information should be given to victims if they choose to make one.

Why is the guide important?

This guide gives criminal justice practitioners all the information they need to explain to victims what is involved in making a VPS. This will help the victim to make an informed decision on whether or not they wish to make a VPS. The VPS will also give the court an informed picture of how the crime has affected the victim when determining any sentence to be imposed on the defendant.

Victim Personal Statement (VPS)

The VPS is a statement written in the victim's own words. It gives victims of crime an opportunity to tell criminal

justice agencies and the courts about how a crime has affected their lives. It also helps criminal justice agencies to understand fully the impact that the crime has had on the victim so that they can make decisions about the case. The VPS is optional. No pressure should be put on victims to make one if they don't want to. However, it is important that the victim understands the benefits of making one.

The VPS can make a lasting and positive difference to victims. It can also affect how they feel the police and criminal justice system are dealing with the case. The VPS gives victims a voice in the criminal justice system. Victims can also say whether or not they would like to read their VPS aloud or have it read aloud on their behalf in court, subject to the discretion of the court.

The VPS is different from the Witness Statement, which is a written or video-recorded account of what happened to the victim. Under the Code of Practice for Victims of Crime (known as the "Victims' Code") the police must offer the victim the opportunity to make a VPS if they are taking a Witness Statement from them.

Make the victim aware that the VPS is a formal Witness Statement and that they will need to sign a declaration confirming that it is true to the best of their knowledge.

Once the VPS is signed, it cannot be altered or withdrawn. The VPS may be reported on in the media and it is possible that on rare occasions victims may be cross-examined by the defence on the content of their VPS.

What information should be included in a VPS?

The VPS will explain the impact the crime has had on victim.

For example, victim might want to mention:

- any physical, financial, emotional or psychological injury they have suffered and/or any treatment they may have received as a result of the crime
- if they feel vulnerable or intimidated
- if they no longer feel safe
- the impact on their family
- how their quality of life has changed on a day-to-day basis
- if they need additional support, for example because they are likely to appear as a witness at the trial

The VPS should not contain the opinions of the victim or the victim's close relatives on what the sentence should be. Victims should be advised on this as this is for the magistrate or judge to decide. Any inappropriate content, such as unsubstantiated claims against the alleged offender may be redacted from the final version of the statement before the court.

Reading the VPS aloud

Under the Victims' Code, victims can express a preference as to whether they would like to read their VPS aloud in court or have it read aloud on their behalf. If the victim says they want to read their VPS aloud, the police must record this. The presumption is that victims will be able to read all or part of their VPS aloud (or have it read out on their behalf) where they choose to do so, unless there are good reasons not to, but ultimately this is a matter for judicial discretion.

The VPS and sentencing of an offender

When passing sentence, the judge will consider how the victim's life has been affected by the crime, including information contained in the VPS as far as the court considers it appropriate – along with all the other evidence in the case and the relevant sentencing guidelines.

Who else can make a VPS?

Victims under 18

Children and young people who are victims of crime under the age of 18 are entitled to make a VPS. Their parents or guardians will also be able to make VPS. Children under the age of 18 must be informed that the VPS can be read aloud for them by a responsible adult at the discretion of the court.

Bereaved close relatives of victims of crime

Bereaved close relatives of victims who died as a result of criminal conduct are entitled to make a VPS.

Victims of the most serious crime (including bereaved close relatives) persistently targeted, or vulnerable or intimidated victims are also entitled to make a VPS.

Although the VPS should normally be made at the time of making a Witness Statement, if the victim has been assessed as belonging to one of three priority categories as defined under the Victims' Code (victims of the most serious crime, persistently targeted and vulnerable or intimidated victims), they can make a VPS to the police at any time before the trial, irrespective of whether they have made a Witness Statement.

When to offer the VPS

The VPS should be made at the same time as the victim makes a Witness Statement. Although they are entitled to make a VPS, they do not have to do so. If the victim is unsure about making a VPS at the time of making a Witness Statement, they will be free to make a VPS later, provided that the VPS is made before the case comes to court or before the offender is sentenced.

The officer must ask the victim whether or not they would like to read relevant parts of their VPS out in court or have it read aloud on their behalf if the defendant is found guilty.

Talking to victims about the VPS

You must:

- 1) Provide victims (or close bereaved relatives) with information about the VPS and explain that it is a statement made by victims in their own words to explain how a crime has affected them. The police should inform the victim about what should and should not be included in the VPS (see above). The statement should be taken on an MG-11 form.
- 2) Explain that the VPS is optional – no one has to make a VPS if they do not want to and it will not affect how the case is investigated. No pressure should be put on the victim to do this.
- 3) Explain that the victim can express a preference as to whether or not they would like to read their VPS aloud (or have it played if recorded) or have it read out on their behalf (usually by a CPS prosecutor) in court if the defendant is found guilty during the trial. You should also explain that the decision on whether or not the victim is able to read out all or part of their VPS is at the discretion of the court. You should record the victim's preference.
- 4) Explain that the statement will still be considered by the court as far as it considers appropriate when sentencing an offender whether or not the victim chooses to read their VPS aloud or have it read aloud on their behalf.

- 5) Explain to victims that they may change their minds and make a VPS at a later date. If they don't want to make a VPS at the same time as making the Witness Statement, inform them that some cases are dealt with by the courts very quickly and that there may not be another opportunity to make a VPS before the trial.
- 6) Explain to the victim that once signed, the VPS forms part of the case papers and cannot be changed or withdrawn. The VPS will be disclosed to the defence, but the victim's contact details will not be shared with them. The victim may also make a further VPS to add to or clarify what was said in their original VPS, especially if the full impact of the crime does not become apparent until later on.
- 7) Make the victim aware of the possible consequences of making a VPS. For example, the VPS may be reported on in the media. On rare occasions, it is possible that the victim may be asked questions about their VPS in court.
- 8) Ensure that you follow the duties outlined in the Victims' Code in relation to the VPS. This includes forwarding the statement to the CPS and informing the CPS of the victim's preference (on reading their VPS aloud), in a timely manner.

More information can be found online at: <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

If the victim is under 18 years old

- The police will need to explain to the child, their parent or guardian what the VPS is, in a way they will understand.
- Their parent or guardian will also be able to make a separate VPS if they want to.
- If the child is very young or has communication difficulties, you should consider consulting with their parent or guardian about whether they, the child or both of them should make the VPS.
- The VPS should be taken in the same format as the Witness Statement (either written or visually recorded).

How the VPS works in practice

Case study - Andy

Andy was assaulted a few streets away from his house. The assault was unprovoked, and Andy did not know the attacker, who ran off afterwards. Andy was admitted to hospital overnight. The day after the attack, Andy decided to make a VPS to explain the impact of the crime on him. It was made clear to him that the VPS could be disclosed to the defence. Andy decided that he did not want his VPS to be read aloud.

In his VPS he said:

"The assault took place near my home, and has left me shocked and in fear... My body aches continuously and sleeping is difficult because of the pain. I can't see properly because of the cuts and bruises around my eyes. Every time I close my eyes I see the man who attacked me. Then I feel so frightened. I thought he was going to kill me – and I don't know why. I don't want to leave the house in case he sees me and attacks me again. But I'm scared to be home because the man could be somewhere nearby. I don't know how I'm going to get on with life".

Four weeks following the assault, Andy decided to make a further VPS. This was to record the effect the crime had had on him in the time following the attack. As well as ongoing health problems, his statement described recurring nightmares, panic attacks and being afraid to go out when it was dark.

Part 2

Impact Statements for Businesses (ISB)

What it is

The ISB is a written statement that gives businesses (or enterprises such as charities) an opportunity to inform criminal justice agencies and the court about the impact a crime has had on their business, such as direct financial loss so that they can make decisions about the case.

The ISB is different from a witness statement or Victim Personal Statement, which can be written or visually-recorded accounts of what happened to the individual victim or how they felt.

An opportunity to make an ISB should be offered to all businesses that are making a witness statement in connection with the case. The ISB can also be taken at the same time as the witness statement but it is also available to be downloaded on www.police.uk.

Who completes the ISB?

An ISB can be made by any business or enterprise (such as charities) but not public sector bodies, their agencies or other subsidiary organisations.

A person making an ISB on behalf of a corporation ("the nominated representative") must be authorised to do so on its behalf. The nominated representative must also be in a position to give evidence that is admissible in court about the impact of the crime on the business. The nominated representative

may be required to answer questions on the ISB in court.

Business representatives may change or leave their post in the business after making the statement. The business should be informed before making the statement that the name of the business representative on the ISB cannot be changed and that the original statement will still be used as evidence in the case.

The business should therefore be advised to consider carefully who to nominate as the representative to make the statement on its behalf.

The role of the ISB in court proceedings and sentencing

If a defendant is found guilty, the court will take the ISB into account when determining the sentence as far as it considers appropriate – along with all the other evidence in the case and the relevant sentencing guidelines.

What should the ISB include?

Businesses should be advised that the ISB can include the following information:

- Financial losses such as;
 - o earnings and staff costs
 - o loss of custom / impact on consumer confidence
 - o expenditure on security measures (e.g. physical infrastructure, IT)
- The physical impact on staff
- Reputational impact

In their ISB, businesses should not provide an opinion or recommendation on the sentence or sanctions that the courts should use. This is for the court to decide. They should limit the information they give in this statement to the impact this particular crime has had on the business, rather than providing information on how any previous criminal activity that occurred may have affected the business (unless, for example, this crime results from the repeat offending of the same offender).

If the business decides to make an ISB: What next?

If the business decides that they want to make an ISB, the police can use the same form as for the witness statement (form MG11). Alternatively, particularly for offences that may not be brought to court quickly, businesses can download a form to self-complete the ISB on www.police.uk. The police should ensure the nominated representative is provided with contact details so they can post or email this form back to the police.

Before taking the ISB, the police need to include a declaration for the business representative to sign. The declaration should be something along these lines:

The Impact Statement for Businesses scheme has been explained to me. What follows is what I wish to say in connection with this matter. I understand that what I say may be used in various ways and that it may be disclosed to the defence.

The business should be made aware that if they choose not to make a statement at the outset of proceedings, although they are entitled to make one later by

downloading the form on www.police.uk, the statement must be received before the case goes to court because in some instances the case may be dealt with by the courts very quickly.

Once the statement is signed it forms part of the case papers so if the case goes to court, the VPS will be sent to the defendant's solicitor. However, the contact details of the nominated representative will not be shared with the defence.

The police should make the nominated representative aware that once the statement is completed and signed, an ISB (like any other formal statement) cannot be altered or withdrawn if the business has second thoughts about what they have said. However, the business representative may submit a further ISB to add to or clarify anything said in the initial statement.

The police should inform the business that the court or the defence could ask the business representative questions about the content of the ISB in order to clarify or challenge certain points. The court may also decide to read part of the ISB aloud. This means the ISB could be reported in the media.

Some businesses might not want to make an ISB about how the crime has affected them. This is perfectly acceptable and you should not draw any conclusions if they don't.

The police must ensure that the completed statement, once received, is forwarded to the CPS who will bring the statement to the attention of the court.

How the ISB works in practice

Case study - Tariq

Tariq owns a small clothing outlet in Bradford city centre. During the lunch rush hour on Friday afternoon, a group of three male youths came in and stole three pairs of trainers and three hooded jumpers. When one worker challenged them the youths swore and threw plastic bottles at them. Tariq's statement was taken a week later.

"I have been given the appropriate information about the Impact Statement for Businesses and the Impact Statement for Businesses scheme has been explained to me. What follows is what I wish to say in connection with this matter. I understand that what I say may be used in various ways and that it may be disclosed to the defence.

Shoplifting has never been a real problem where I am located. The community is quite closely knit so I recognise most people who come in and out of my shop. I had never seen these youths before so I am presuming they were not from the local area. They stole three pairs of trainers and three hooded jumpers which were worth a total of £300. I cannot afford these losses as business has been slow in recent months. I was worried about further thefts, so had to shut the shop early on Friday up until Monday. That is two and a half days of takings (including one weekend) I have missed out on. The financial losses are detrimental. My employee Ash has been left shaken by the incident and has called in sick for the last week. It is very hard to get extra support at such short notice, so I have been alone in the shop for five days now."

For more information on the full Victims' Code:

www.gov.uk