



PACT

Support, Educate, Empower

PACT's Guide to Writing Victim Impact Statements (VIS)



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PART 1 - Frequently asked questions

? What is a Victim Impact Statement?

A Victim Impact Statement (VIS) is a statement written by the victim for the court to hear, which describes the impacts the crime has had on them. This can include physical, mental, social and financial impacts. Your VIS is about the impact of the crime, on you, in your own words.

? Do I have to write a VIS?

No - it's optional.

You have the legal right to provide a VIS, but it is your choice whether or not you do so.

Some people want to write a VIS and use the opportunity to describe the impact of the crime to the court. Others choose not to write one. There is no right answer – it is a personal choice based on what is best for you.

? When is my VIS used?

Victim Impact Statements are only used at sentencing once a person has been found guilty of a crime or if they plead guilty. You may draft your VIS at any time during the prosecution, but the prosecutor will need it prior to any sentence hearing taking place.

? When do I write my VIS?

Although you can write the VIS at any time, it is generally suggested that you prepare your VIS ahead of the trial or sentence. Your Victim Liaison Officer (VLO) from the Office of the Department of Public Prosecutions (ODPP), the Arresting Officer from the Qld Police Service (AO) or the Crown Prosecutor will guide you on when they would like you submit your VIS. If you want to start writing a VIS early in case it is needed at short notice, you can do so but keep it in draft form until you are asked for it.

? What should a VIS look like?

There is no set structure to a VIS, it's your document so you can choose the best way to express the impact of the crime on you. It can be written or shown in a variety of ways: In paragraph form, as a letter, a poem, outlined in dot points, drawn as a picture, or any other format you choose.



? Will writing a VIS increase the sentence given?

The sentencing Judge or Magistrate will consider many things when determining the sentence given to the defendant, including:

- The nature and seriousness of the offence
- Mitigating factors
- The defendant's personal circumstances, such as background, employment, family and health
- Whether they pleaded guilty
- Whether they cooperated with police
- Contributing factors to the offending
- Any remorse shown and their likelihood of reoffending
- Any rehabilitation efforts of the defendant
- Prior convictions and similarity to any other offending
- A wide range of circumstances relevant to the case

The considerations of the Judge/Magistrate are extensive, so we generally suggest the reason for writing a VIS is more about you, rather than the offender or Judge. Focus on you and decide whether a VIS would be helpful or harmful for you – only you can decide this.

? Who can write a VIS?

The primary victim of the crime is normally the one who would write a VIS, though secondary witnesses and family members can also write a VIS. A primary victim is the person who was directly harmed by the crime. The immediate family members who can write a VIS are defined in the legislation as the primary victim's spouse, parents, siblings, or their children. If the primary victim is not able to write their own VIS due to their age or impaired capacity, another person can write one on their behalf.

? How can PACT help me in writing my VIS?

Your PACT volunteer will go through this guide with you. If you are having difficulty in compiling your VIS, or need further guidance, contact your volunteer. While they cannot rewrite or correct your VIS as it needs to be in your words, they can discuss your progress and help direct your approach to writing the document while continuing to give feedback and guidance on what is required.

Key Information Summary:

- ✓ Writing a VIS is **not compulsory**, it is your choice
- ✓ A VIS is only used **at sentencing** when a person has been found guilty or pleaded guilty
- ✓ A VIS explains the **impact of the crime** on you
- ✓ Your Victim Liaison Officer (VLO) and the prosecutor will review your VIS. They may decide parts can't be used and explain why. Always check with your VLO when unsure.
- ✓ Your VIS is shown to the **defence team and defendant** once you submit it, so don't disclose anything you don't want others to know.



PART 2 - Step by step guide to writing a VIS

It can be overwhelming thinking about the impact the crime has had. This resource has been developed to give you some ideas on how to approach writing your own VIS.

Although we can't tell you what to write or how to write it, there are suggested areas you may want to think about. Remember, the VIS is about you – although there are some ideas, what's most important is that you are comfortable with the final statement. Your VIS is about the impact of the crime, on you, in your own words.

1

Step 1 – Before starting, remember TWO important things:

It's about the impact. NOT the evidence.

The VIS will only be used if the person is found guilty (meaning the evidence has already been considered) or have pleaded guilty, so do not include any details about the actual crime. You should only write about the impact of the crime. Not the actual crime.

The VIS may be read by the defendant.

Don't share confidential information that you do not want others knowing. It is read in open court and the defendant and their family/support network, media and others attending the sentencing will then know this information about you. For example, talking about your new job, the children's school or where you now live.

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Step 2 – Work out the impact of the crime:

A VIS is your opportunity to outline the impact the crime has had on you.

One approach is to think about your life before and after the crime. The crime may have had many impacts and it can be overwhelming trying to think about all of them. It may be easier to think about the separate areas of impact outlined below. When you consider what you would like to include you may want to discuss the impact on all, or some of these areas.

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STEP 3 – Consider the types of impacts that can be included, such as:

Physical Impacts

These describe any physical injuries you suffered and how these have impacted or affected your day-to-day life since. This can also include:

- Injuries as a result of the crime (such as broken bones, nerve damage)
- How injuries have affected your life (such as work, sport or leisure activities)
- Any long term impacts of injuries on your life
- Any ongoing medical treatment you need

Remember that if you describe medical terms or conditions (such as "the disc in my back was injured and it causes me pain everyday") you may need to produce medical evidence to confirm what you've written.



Emotional and Psychological Impacts

This covers things like your mood, your feelings of self-worth, your ability to trust, your sense of safety and security. This can also include:

- Your general feelings of wellbeing or enjoyment of life
- How the crime has affected any relationships (with your partner, family, friends)
- Any emotions or feelings related to the crime (such as hurt, anger, fear, frustration)
- Effects on your lifestyle and activities (such as trouble sleeping, eating, working)
- Psychological effects of the crime, including any treatment you need
- How these impacts might change your life into the future

Using descriptions such as “I’m scared at night”, “I always feel sad”, “I freak out when touched” or “I prefer to stay home and not meet new people anymore” shows the impact of the crime without being too specific and using medical terms.

If you begin to use specific medical terms – such as “now I have been diagnosed with anxiety” or “I am depressed”, then these medical conditions should only be included if you have medical information that confirms these formal conditions.

Social Impacts

This can include areas of your life such as work, study, sport, making and maintaining friendships and personal relationships. It can also describe your ability to engage in your community and attend events such as parties, functions or attending public places like shopping centres.

You can also describe the impact it has had on how you connect with others, your emotional responses and ability to engage in all aspects of relationships.

Financial Impact

This may include any period of time you had away from work or how your income has changed. You may have had to relocate or had medical bills to pay. Other areas to include are:

- Loss of future earnings because of the crime (if the injury has affected your ability to work)
- General expenses caused by the crime (such as home security, replacing items)
- Cost of medical treatment needed because of the crime

If there have been social impacts (such as you are scared being around strangers and don’t catch the bus anymore) then these may increase the financial impact because driving to work and parking are more expensive than public transport (but don’t say where you work).

Other life changes

You can include any other areas of your life that have changed as a result of the crime where you have been impacted.

If the crime has resulted in a death, you may want to talk about the deceased person, their personality, their goals and how they impacted your life.



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Step 4 – How to structure these thoughts

Now that you've thought about the areas you may like to discuss in your VIS, you can decide how you wish to structure it. This may be:

1. In bullet points
2. A letter
3. Paragraph format

Remember you may also like to express these impacts through a picture, a poem or song if that is more meaningful for you.

Keep in mind that generally a VIS is between 1 and 3 pages long. That's only general guide, so you can decide what is most important for you.

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Step 5 – Review your VIS for information that it is recommended to avoid

Once you've got a draft of your statement, think about the following points which show what information is recommended that you avoid in your VIS.

Private or confidential information: Your VIS will be provided to the defendant and their legal team, and along with others, they will hear the statement if it is read out in court. Consider what information you do not want to share.

Evidence and details of the crime: The court has heard all the evidence and the defendant has been found guilty or pleaded guilty. You should avoid including any details of the crime. This includes, times, dates and locations, the details of what happened and any information about other offences other than those the defendant is being sentenced on.

Information or opinions about the offender: Focus the content of your VIS on the impact the crime has had on you and don't include statements about what you think of the defendant and/or what punishment they should receive. Focus on the impact. It's about you and the impact the crime has had on you.

Suggestions about the defendant's sentence or penalty: Avoid talking about what sentence you think the defendant should receive or listing other crimes, behaviours or background information. Statements about the sentence are likely to be removed and will not be considered by the Judge.

Offensive and inappropriate language: Your VIS is a document that is submitted to the court and it is recommended that you use language that will not offend or be inappropriate to others. It is best to avoid swearing, or any offensive language even if this is something that you use day to day. If your VIS contains inappropriate or offensive language these parts may not be allowed to be read in the court.

Check if you used medical terms: If you name a diagnosis in your VIS or make statements such as "I had surgery" then you will need to have supporting documents to submit with your VIS. If you do not have these documents then write about the impact using descriptive words.

It can be difficult to understand and follow the recommendations on what to avoid in your VIS. At the end of this document we have included examples to guide you.

Remember – it is your VIS. If you choose to include any of the above information, we suggest you talk to your VLO about it and what might happen.



VIS checklist:

- ☐ Have you avoided using private and confidential information you do not want others to know?
- ☐ Have you focused on the Impact that this crime has had on you?
- ☐ Have you avoided discussing evidence and the facts of the case?
- ☐ Have you avoided using offensive or inappropriate language?
- ☐ Have you avoided writing about your opinions of the defendant or what the punishment should be?
- ☐ Have you included any documentation that support statements about medical or psychological diagnosis?
- ☐ Is your VIS typed or written neatly so that it can be read by others?
- ☐ Is your VIS signed and dated?

If you have any questions about these please speak to your VLO before submitting your VIS – Part 3 of this guide has some examples of how to avoid writing about certain topics.

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Step 6 – Submit your VIS

Police Prosecutions prosecute most matters in the Magistrates Court. The Office of the Director of Public Prosecutions (ODPP) also prosecutes some matters before the Magistrates Court in Brisbane, Ipswich, and Southport and all matters before the district and supreme courts.

Once you've checked your VIS and you are comfortable with the content, you can submit the VIS in one of two ways:

1. If the matter is before the Magistrates Court and police prosecutions are dealing with your matter, you may send your VIS to the arresting officer (AO), or to the police officer who has been contacting you about the case.
2. If the matter is before the District Court or Supreme Court, or if the ODPP are dealing with the matter at the Magistrates Court, you may send your VIS directly to the VLO at the ODPP.

TIPS

- ✓ **The VIS should be typed if possible**
- ✓ **The VIS should be signed and dated** (a typed name and date is fine if submitting it electronically via email)
- ✓ **The VLO or AO will request the VIS from you when it is needed**

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STEP 7 – What happens after I submit my VIS?

The prosecutor will read the contents of your VIS and discuss with you if there is anything in it that cannot be presented to court.

A copy of your VIS, including any draft versions, will be sent to the defence lawyer as soon as the prosecutor receives it. The defendant also has a right to view it once their lawyer receives it. Please note, if the defendant does not have lawyers and is self-represented, the VIS would be sent directly to them.

A final copy is then sent to the Judge.



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Step 8 – Think how you want the VIS presented to the court

Once submitted, you may advise the VLO on how you would like your VIS presented to the court.

The VIS will be given to the Judge who will read it on their own along with the other information about the case. The lawyers and the Judge may still talk about the VIS or mention parts of it during the sentencing.

In addition, the VIS can be read aloud to the court by yourself or the prosecutor if you request this.

The Judge will have already been given a copy of the VIS and have read it themselves, so whether you choose to read the VIS aloud to the court is a personal decision for you.

Remember, everyone present in the court room will hear what is said.

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Step 9 – OPTIONAL: Attend sentencing and read your VIS in court

You do not need to attend the sentencing, this is **optional**.

If you have chosen to read the VIS in court there will be an opportunity for you to read the statement.

You must read the statement exactly as it is written, this is not an opportunity for you to say or do anything else. You are not allowed to add information, make ad-hoc comments or offer any other opinions – the focus is on reading the VIS, nothing more.

The Judge will issue their sentence and as part of this, may choose to quote or refer to parts of the VIS when making their “sentencing remarks”. If the Judge does this, the defendant will hear these and they will be recorded in the written records of the case.

TIP

Do not include facts or details of the case. Focus on the impact on you, and talk only about the crime that the person is being sentenced for (not any other crimes that were not reported, or are still being investigated).



PART 3 - Examples of things to avoid in your VIS

Although there is a lot of flexibility in the layout, style and presentation of the VIS, there are a few important things to remember.

It can be easy to write about how you or others feel about the defendant, and to go over information about the crime, or to share what you want to happen to the defendant.

By making sure you stay within the guidelines and suggestions, it will give you the best opportunity to ensure you are not asked to remove some sections by prosecutions and that you are able to read the VIS in court (if you want) and ensure that no confidential information is shared.

To help you with this important part of writing a VIS, here are some self-checks on the various areas it is recommended you avoid. Some examples are outlined below on how you might best re-phrase things to make sure that everything you write is acceptable.

Self check #1 – Avoid private and confidential information

Have you included any information you do not want the defendant knowing, such as where you now live, work or where your children go to school?

If yes, you should change this information while keeping the same meaning to avoid using place names, school names or workplaces.

Examples of how to change the content but keep the meaning:

☒ **Change** – "My children lost all their school friends because we had to relocate to Warwick where we don't know anybody."

☒ **To** – "We had to relocate and my children have lost all their school friends because they don't know anyone here."

☒ **Change** – "I had to quit my old job, which I enjoyed and where I knew everyone and have now taken a job at Westfield Helensvale for much less money."

☒ **To** – "I had to quit my old job, which I enjoyed and where I knew everyone and have now taken a job for much less money."

Self check #2 – Don't discuss evidence

Have you included any details about the crime, such as describing what happened, times, dates, locations, actions or what was said?

If yes, remove these details. If you accidentally describe the evidence in a different way (or leave it open to interpretation), it can raise issues about the evidence already considered by the Judge during the trial. Only talk about the crime the defendant has been found guilty of and is being sentenced for.

Examples of how to change the content to remove evidence:

☒ **Change** – "They picked up the baseball bat and hit me across the body, arm and leg with it."

☒ **To** – "I hurt for weeks afterwards with terrible pain, which was so bad I hardly went out."

☒ **Change** – "I got home from work about 4pm on Monday night and they were waiting for me."

☒ **To** – "I am scared when I come home from work as I am fearful someone is waiting for me in my house."



Self check #3 – Have you included previous offences?

Have you included any historical offences or events that are not part of this case? If yes, you should remove this information.

Example:

☒ **Change** – "This was not the first time it happened. Over the years I have suffered a lot..."

☒ **To** – "The effects from this crime have caused me to suffer because..."

Self check #4 – Is there offensive or inappropriate language

Have you written your statement using inappropriate language or swear words? If yes, the language may need to be changed to avoid parts of your statement being removed.

Your VIS is something that will be presented to the court, and they ask that it does not contain offensive and inappropriate language. When you submit your statement to the VLO for the prosecutor to review, they may decide to remove parts of your VIS if the language is deemed inappropriate. Language that is acceptable with friends or in social settings, may not be acceptable in the court setting.

Example:

☒ **Change** – "The ###@\$@# I suffered has made me scared to be alone."

☒ **To** – "because of the crime, I am scared to be alone."

Self check #5 – Have you added personal opinions?

Have you included in your VIS any personal opinions about the defendant, the sentence or the punishment they should get?

Have you talked about how the crime has made other people feel? If yes, then you should consider removing or re-framing what is written.

Try not to talk about how other people feel about the crime – you shouldn't try to "put words in their mouth" even if they've talked to you about how they felt.

In a VIS, avoid talking about other people's feelings and if you must discuss other people, focus on factual events and behaviours you observe.

Example of opinionated wording that should be removed:

☒ "They are a self-serving, manipulative coward."

☒ "They should spend the rest of their life in jail."

Examples of how to rephrase wording centred on the feelings of others:

☒ **Change** – "My father moved in with me because he feels guilty he could not stop this happening."

☒ **To** – "There have been many disruptions in my family since the crime. My father left his job and moved in to live with me for my safety."

☒ **Change** – "My children feel nervous and scared all the time now."

☒ **To** – "My children's behaviour has changed since the crime. They stay close to me at all times and sleep in my bed at night."



Self check #5 – Do you need documentation to back up claims?

Have you included any documentation you need to confirm any statements made about medical or psychological conditions?

If not, you will need to either change the wording in your statement, or obtain this information to submit with the VIS (or be confident you can obtain if requested).

Example:

X Change – "Since the crime I have suffered from depression* and anxiety."

✓ To – "Since the crime I feel sad all the time. I want to sleep all day and have lost my appetite. I don't find any joy in my day and cannot function and get things done like I used to. I also get worried and have thoughts that are not rational about bad things happening."

* Depression and anxiety are widely used in everyday language to mean sadness, unhappiness and/or fear. Within a medical setting, however, they are clinical conditions with diagnostic tests required before a medical professional would put these conditions in a report. Be careful of using language like this when you may be required to prove these conditions have been formally diagnosed.

X Change – "As a result of the injury I had to have surgery on my eye and my vision is now at 20% in that eye."

✓ To – "As a result of the injury, my vision is much worse in that eye."

TIP

If you're not sure what information you may need to verify what is in your VIS, talk with your arresting officer or VLO. If your injuries or diagnosis was part of the evidence presented at the trial, there may be evidence that has already been presented or it may be available to you. If you have not had a formal diagnosis then remain focused on describing how the impact affected you.





PART 4 - Tips for those supporting a victim to write a VIS

TIP #1: Draft a VIS before the trial

It is important that a Victim Impact Statement is prepared in draft form ahead of a trial. Since we can't predict whether there will be a guilty verdict followed by immediate sentencing, the VIS needs to be available and ready to quickly finish and submit if required. If the trial is already running before they draft their VIS, it may cause added stress on the complainant and there may not be a suitable person available to help them on very short notice.

TIP #2: If evidence is pre-recorded, help the victim write their VIS as soon as possible afterward

If the victim intends to write a VIS, work with them as soon as possible after they pre-recorded their evidence. If they have created a draft they are happy with, it can be submitted to ODPP right away. Or, they can keep the draft until the trial takes place, in case they want to make any final amendments.

TIP #3: If evidence is given live, plan ahead to work with the victim on a draft

If your client is to give evidence live, then you need to plan ahead and work with them on a draft. That draft can be held in final form until it is needed, or it can be a work in progress which may have some subsequent tweaks. The important thing to avoid is finding out a VIS is needed (where the client wants to write one), and there is no time to do it.

A final form Victim Impact Statement should not be submitted to ODPP by the client until after they have given their evidence, whether that be pre-recorded or at a live trial (unless requested by the Crown Prosecutor).

TIP #4: In the case of a guilty plea where the matter goes directly to sentencing, prepare and submit the VIS as soon as it's ready.

When there's a guilty plea and the matter proceeds directly to sentencing, the Victim Impact Statement can be prepared and delivered to ODPP by the client as soon as it is in final form. Preferably, the VIS should be submitted to the ODPP no later than two weeks before the sentencing date.

REMEMBER: All Victim Impact Statements submitted to the ODPP will be disclosed to the defence counsel. The client should NOT submit draft documents to the VLO. If they have questions about the contents of their VIS they should call and discuss the queries with their VLO or Prosecutor before submitting in final form.

