

# Joint Agency Guide to the Victim Personal Statement

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A guide for all criminal justice practitioners



## **Joint Agency Guide to the Victim Personal Statement**

Crime affects people in different ways, whether emotionally, physically, financially, psychologically or in any other way. Often victims can feel removed from the criminal justice process but making a Victim Personal Statement (VPS) enables them to explain the impact of the crime in their own words. It helps criminal justice agencies to gain an understanding of this impact and, just as importantly, may allow the offender to hear about the implications of their actions.

It is therefore important that victims are provided with accurate and timely information about the VPS scheme to allow them to make an informed decision whether they wish to take part in the process. We know from the Victims' Commissioner's review of the VPS scheme that all criminal justice agencies can do more to ensure every victim is given this opportunity to have their voice heard.

This guide provides practical advice to anyone who might be involved in the VPS process – including police officers and investigators, as well as staff from the Crown Prosecution Service, Witness Care Units, courts and probation. It particularly focuses on helping police officers to understand what information they should provide to victims if they choose to make a VPS.

The guide has been developed in partnership between the College of Policing, the Crown Prosecution Service, HM Court and Tribunal Service, HM Prison and Probation Service Judicial Office, Ministry of Justice, National Police Chiefs Council and the Parole Board. The Victims' Commissioner's Office was also consulted during the drafting process.

Each agency has agreed to incorporate the guide into their victim focused policies and, where relevant, establish processes to monitor compliance with this important victim's right under the Code of Practice for Victims of Crime.

**College of Policing**

**Ministry of Justice**

**Crown Prosecution Service**

**Her Majesty's Prison and Probation Service**

**Her Majesty's Courts and Tribunal Service**

**National Police Chiefs Council**

**Judicial Office**

**Parole Board**

This guide contains key information and frequently asked questions to explain what a Victim Personal Statement (VPS) is and how it will be used at the different stages.

Victim entitlements to make a VPS are included in the Code of Practice for Victims of Crime (Victims' Code).

## What is a Victim Personal Statement?

1. A VPS is a statement given by victims of crime<sup>1</sup> to the police (or any agency or organisation assigned to take the VPS on their behalf). It is important as it gives victims a voice in the criminal justice process by helping others to understand how the crime has affected them. It provides an opportunity for victims to communicate verbally and/or in writing the effects the crime has had on them (and also their family members). It is the victim's way of telling the court about the crime they have suffered and the impact it has had on them whether physical, emotional, psychological, financial or in any other way.
2. The VPS may also be used at appeal hearings, tariff review hearings and at Parole Board hearings, where the victim can additionally set out how the crime continues to affect them and/or their family and the impact that any outcome from one of those reviews may have on them.
3. The VPS also helps criminal justice agencies make decisions on the support and services that victims and their families may need, which may include special measures to be used in court and referral to information and support services.

## Where will a VPS be used?

4. (a) **In Court** – a VPS can be submitted for consideration in either the magistrates' court or Crown Court.  
(b) **HMP Tariff Reviews** - a VPS can also be submitted for certain tariff reviews. These are not standard reviews and only apply to offenders who were under 18 years of age at the time the crime took place, and were subsequently detained 'at Her Majesty's Pleasure'. These offenders will have been given indeterminate sentences, with a tariff set by the trial judge. Sentenced as minors, they have the right to apply to the High Court for a tariff review once they have served half of that tariff.  
(c) **Parole Reviews** - a VPS can be submitted by those victims who have an entitlement under the Victims' Code, where the offender is eligible to have their continued detention reviewed by the Parole Board. This includes prisoners serving indeterminate sentences, recalled prisoners, and some types of determinate sentences.

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<sup>1</sup> Includes bereaved close relatives. Other family members, including guardians and carers, may be considered close relatives at the discretion of the service provider. Any reference to victims in this document includes these people

## **Who is entitled to make a VPS?**

5. Victims of **all** offences (not just those considered to be serious) should be offered the opportunity to make a VPS at court as the VPS is the victim's only chance to say in their own words how the offence has impacted on them and they should be given the opportunity to do so. Allowing victims to make a VPS acknowledges that they are a unique individual and this is important in treating victims with the respect they deserve.
6. The following people are entitled to be offered the opportunity to make a VPS at court:
  - any victim of crime at the same time as they give their witness statement;
  - victims of the most serious crime (including bereaved close relatives), persistently targeted victims and vulnerable or intimidated victims whether or not they have made a witness statement;
  - a parent or carer of a vulnerable adult or of a young victim under the age of 18 unless it is considered not to be in the best interests of the child or vulnerable adult.
7. In addition, others affected by the crime in any other case, can be offered the opportunity to make a VPS at the discretion of the police.
8. Under the Victims' Code, victims who have a statutory entitlement to the National Probation Service Victim Contact Scheme are entitled to submit a VPS for Tariff Reviews and Parole Board reviews. The Victim Contact Scheme is for victims of offenders convicted of a specified sexual or violent offence who are sentenced to 12 months or more imprisonment. A specified offence is murder, or as defined in Section 45 (2) of the Domestic Violence, Crime and Victims Act 2004.
9. Businesses are also able to make a statement describing the impact of a crime on them (for further details see Chapter 4 of the Code of Practice for Victims of Crime).

## **Should victims be actively encouraged to make a VPS?**

10. All victims of crime must be offered the opportunity to make a VPS. The decision on whether to make one must, however, be entirely a matter for the victim. Victims should be given information to help them make as informed a decision as possible, but should neither be encouraged nor dissuaded from doing so.
11. This is to ensure that all victims are given the same opportunity to explain in their own words the detail of the harm they have suffered and for this to be considered by the court, or Parole Board. It is acknowledged, however, that not all victims wish to make a VPS and their decision must be respected.
12. Making a VPS can be traumatic for victims. It requires them to reflect on the offence and how it has impacted upon their life. Families of deceased victims in particular often invest a lot of time and emotion in writing their VPS because they feel they

owe it to their loved ones to speak out for them. Many victims therefore value the opportunity to make a VPS and it is important that they are given the opportunity to do so. Their questions about what it involves, who will see it and what the purpose of it is should be clearly and consistently answered from the outset so they can make an informed decision on how they want to proceed with the VPS process.

13. Victims identified as vulnerable or intimidated should be informed that they are eligible for special measures to assist them in reading out their VPS and to put them at their ease. They should also be informed that the decision whether or not to allow the VPS to be read in court (in full or in part or summarised) and the granting of any special measures is a matter for the court.

### **When should a VPS be made?**

14. Victims should be first offered the opportunity to make a VPS at the same time as giving a witness statement to the police. Victims should also be made aware at this time that they also have the opportunity to make an updated statement later in the course of proceedings, to reflect any ongoing impacts. Victims may also choose to make a VPS at a later stage of the court process, provided this is before the offender is sentenced, before an appeal or tariff hearing or before the case goes to the Parole Board.
15. Victims should be made aware that if they choose not to make a VPS when it is initially offered, they may not have another opportunity to do so for the court because some cases (for example, early guilty plea cases) may be dealt with very quickly by the courts.
16. Victims will need to be informed in good time when an appeal hearing or tariff review is taking place, so that they have sufficient time to make a decision on whether to submit a VPS. There is normally only a very short period in which to do this.
17. Parole reviews follow a six month timetable and victims should be informed of the commencement of a parole review as soon as it starts. This will give victims sufficient time to consider submitting a VPS.
18. Where a prisoner has been subject to a standard recall to prison there are only 14 days in which to submit a VPS. This is because it is a statutory requirement that detention is reviewed within 28 days of a prisoner's return to prison following recall.

### **What should the victim be told about the VPS?**

19. Victims should be informed that, for court, once a VPS is made it cannot be altered or withdrawn and forms part of the court papers. Victims are entitled to make an additional VPS to clarify points they may have made in the original VPS, or to provide the court with additional information, such as how the crime has continued to affect them.

20. Victims should never be put under pressure to make a VPS if they do not wish to do so. They should be assured that the prosecutor will in any event describe the impact of the crime to the best of his or her ability. The court will not assess the case less seriously, or make any assumptions because victims do not wish to put forward a VPS. The court will pass sentence on the basis of the Sentencing Council guidelines using all of the information before it.
21. Victims should be informed that a VPS will always be shared with the prosecuting agency, ordinarily the Crown Prosecution Service (CPS). If the case reaches court, then the VPS will be served on the court and the defence as part of the Initial Details of the Prosecution Case (IDPC)<sup>2</sup>, so the suspect will usually be able to see it.
22. When making a VPS, victims can:
- ask to read out their VPS aloud in court;
  - have it read out on their behalf (or played in court if recorded);
  - choose not to have the VPS read out – however, the VPS will still be considered by the court.
23. It is for the court to decide who should read out the VPS after taking into account the victim's preferences which will be followed unless there is good reason not to do so, for example potentially harmful consequences for the victim. Victims should be informed that court hearings will not be adjourned solely to allow the victim to attend to read the VPS.
24. The [Criminal Practice Direction VII F3 - Sentencing - VPS](#) has been amended to take account of the judgement in *R –v- Perkins, Bennett and Hall* (2013) EWCA Crim 323 and the victim's entitlement to read out their VPS as set out in the Code of Practice for Victims of Crime.
25. Children under the age of 18 should be informed that the VPS can be read aloud for them by a responsible adult at the discretion of the court.
26. The VPS may be read out in whole or in part or it may be summarised. This decision will be made by the court taking into account the victim's preferences which will be followed unless there are good reasons not to, for example the content is inadmissible.
27. Victims should be informed that should they decide to read their VPS out in court (or have it read out by a third party, or have it played if recorded), the contents of their VPS could be reported on by the media.
28. Victims should also be informed that their VPS will become part of the evidence if the case proceeds to trial and that it will therefore be shared with the defence. As with other evidence in the case, if the court agrees it is relevant to the case, the

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<sup>2</sup> Criminal Practice Direction 8.3(b) (v)

defence can ask the victim questions (i.e. cross-examine them) about the contents of their VPS.

29. The process for tariff reviews is the same as above, however these are paper hearings and there is no opportunity for the VPS to be read out aloud by anyone.
30. The process for parole hearings is slightly different in that victims can submit a fresh VPS and apply for this to be subject to non-disclosure (ie the offender is not allowed to see the content). There is a structured process for managing applications of non-disclosure. As a result, timely requests must be made to ensure this happens correctly. Any VPS submitted for a parole hearing can be withdrawn by the victim, if they change their mind, including if their application for non-disclosure is refused.

## **What information should be included in the VPS?**

31. Victims should be made aware of what information should go into a VPS and what should be left out.
32. Victims may include the following in their VPS:
  - any physical, financial, emotional or psychological injury they have suffered and/or any treatment they 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 the quality of their life has changed on a day-to-day basis;
  - if they need additional support, for example, if they are likely to appear as a witness at the trial
  - the on-going impact of the crime on their lives.
33. Victims must not include their thoughts or opinions on how the alleged offender should be punished - this is for the court to decide. Victims should be informed that any inappropriate content may be removed from the final version of the statement before the court.
34. In addition to the above, a VPS submitted for a parole hearing must not make any comment on whether the offender should be released or not, and must not include any information that pertains to risk. If a victim has information that may be relevant to assessing the risk of an offender it should be given to the probation service to consider.
35. It is very rare for victims to be called as witnesses to parole hearings.

## **When will the VPS process be used?**

36. In all cases it will be appropriate for the VPS to be referred to by the court in the course of the sentencing hearing and/or in the remarks whether following a guilty plea or the defendant being convicted after a trial.

37. Where victims have a statutory entitlement to the National Probation Service Victim Contact Scheme (VCS) they are entitled to update or submit a new VPS for a tariff review or parole hearing. If the victim made a VPS during the original trial, this should be passed to the VCS at the time of referral.
38. The VPS will always be read by the court or Parole Board, provided it is submitted on time.

### **Does the VPS make a difference to the sentence passed by the court?**

39. The Sentencing Council publish sentencing guidelines which set out a step approach for the courts based on the culpability of the defendant and the harm caused to the victim. Each Guideline sets out a range of sentences that appropriately reflect the seriousness of each individual offence and which are intended to create a consistent approach. If, however, in any particular case the court feels it is in the interests of justice to sentence outside the guidelines, then it can do so.
40. When assessing the nature and seriousness of the offender's actions, courts will take into account the physical, emotional and financial harm caused to a victim or his or her family. Whilst the court is aware of the likely impact of most offences, the VPS can help them understand better how they apply to the particular case before them. In other words it can help them understand how the crime has affected the victim.
41. The VPS, when available, forms part of the package which the sentencing court has before it.
42. However, the court will consider all of the available information when passing sentence. This may include:
  - pre-sentence reports;
  - reports from a psychologist or psychiatrist about the offender and medical reports on the victim;
  - as well as aggravating factors, any mitigation put forward by the offender which relates to his/her personal circumstances at the time the offence was committed.
43. In summary, the VPS can help refine the court's assessment of the harm caused to the victim by the offender and this may impact on the severity of the sentence passed.
44. In some cases it might impact on whether the court can order compensation, or its amount.
45. For tariff reviews the VPS will be relevant to the court only when assessing the seriousness of the offence. The court will, when deciding whether or not to reduce a tariff, balance the exceptional and unforeseen progress made by the prisoner against the seriousness of the offence and other relevant factors. It is precisely because the

views of the victim are relevant to the assessment of the seriousness of the offence that the VPS must be disclosed to the offender.

### **Does the VPS make a difference to the consideration of the Parole Board?**

46. For parole hearings the VPS allows the panel to direct questions to the offender regarding impact of their behaviour, insight into their behaviour, remorse, empathy and assessing licence conditions. It gives the panel insight into the original offence and the impact of those affected at that time and the continuing impact, or additional impact should the offender be released. It also helps the panel decide appropriate licence conditions, if the offender is to be released.

For more information on the full Victims' Code:  
**[www.gov.uk](http://www.gov.uk)**