

# **Guidelines for making a Victim Impact Statement in the Youth Court**

## **What is a victim impact statement?**

A victim impact statement is information on how offending by a young person has affected you.

The information you provide in your victim impact statement will be considered by the Youth Court judge when considering the most appropriate outcome for a young person who has offended.

## **What is the purpose of these guidelines?**

These guidelines are to help you prepare a victim impact statement.

They cover:

- the purpose of a victim impact statement
- when you can make a victim impact statement
- what information you can include in a victim impact statement
- what you need to do to make a victim impact statement
- who you can contact for assistance.

These guidelines apply only to making victim impact statements in the Youth Court. There are separate guidelines for the adult criminal justice system.

## **PART 1 – PURPOSE OF A VICTIM IMPACT STATEMENT**

### **What is the purpose of a victim impact statement?**

The purpose of a victim impact statement is to:

- give information to the Youth Court about how the offending has affected you
- help the Youth Court understand your views about the offending
- make the young person aware of how their offending has affected you.

The Youth Court judge will already have received information about your, and perhaps other victims', views from the family group conference plan and the social worker's report (where required).

The judge can also consider your victim impact statement when deciding on the most appropriate outcome for the young person.

A victim impact statement can be in writing or recorded in another way (e.g. on audiotape). It can also include photographs or drawings if they assist the court to understand how the offence affected you.

## **How does a victim impact statement affect the outcome for a young person?**

The Youth Court judge is required to consider all relevant information when deciding on the most appropriate outcome for a young person who has offended.

For example, the judge will consider:

- the recommendations from the family group conference
- the social work report about the young person
- the maximum penalty for the offence
- the seriousness of the offending in the particular case
- anything that is relevant about the young person, such as their age or a history of previous offending
- how the offending has affected you or your family; and
- consistency with other outcomes in similar cases.

Victim impact statements are one of many factors the judge must balance in order to arrive at an appropriate outcome.

## **Who can make a victim impact statement in the Youth Court?**

You can make a victim impact statement in the Youth Court if you are the victim of an offence committed by a young person who will be made subject to an order under section 283 of the Children, Young Persons, and Their Families Act 1989.

Section 283 provides options to the Court that can be used to appropriately address the offending of a young person – they range from a discharge without further penalty to being held in a youth justice residence for up to 6 months. In some cases, the young person will be transferred to the District Court for sentencing as an adult.

## **Do you have to make a victim impact statement?**

No. You can choose whether or not to make a victim impact statement. In many cases you will have already participated in the family group conference for the young person and contributed to the plan.

The benefits and challenges of attending or participating in a family group conference will be different for each person and this may be sufficient for many victims. However, you may also decide to submit a victim impact statement to the Youth Court in addition to or instead of participating in the family group conference process.

### **When can you prepare a victim impact statement?**

The victim impact statement is prepared after the family group conference process has been completed and a social worker's report and plan for the young person has been prepared for the Court.

Either the Police Officer in Charge of the case or the Youth Aid Officer is responsible for ensuring a victim impact statement is made if you wish.

## **PART 2 – HOW TO PREPARE A VICTIM IMPACT STATEMENT**

### **How do you make a victim impact statement?**

You can write your own victim impact statement. Police are available and trained to assist with this. If you are unable to write a victim impact statement, the Police can do this for you if you agree.

If you include information that falls outside the purpose of a victim impact statement, the Police Officer in Charge of the case will help you change it so it can be submitted to court.

You will be asked to confirm that the information you give is true to the best of your knowledge and that you know it is for the purpose of a victim impact statement. You can do this by signing the victim impact statement, or asking the prosecutor or Police Officer in Charge of the case to sign it on your behalf.

Once completed, the Police will hold on to your victim impact statement as part of the case materials.

### **Can you change your victim impact statement later?**

Yes. You can make changes to your victim impact statement to ensure it stays up-to-date as the case progresses through the youth justice process.

The Police Officer in Charge of the case, or the Youth Aid Officer, will ensure that your victim impact statement is prepared early in the process and will contact you about checking the statement is up-to-date.

### **At the Youth Court Hearing**

A victim impact statement may be submitted if you wish, by the prosecutor to the court at the hearing at which the section 283 order will be made.

The young person can ask to see a copy, but cannot keep it without you agreeing.

A judge can order that part of a victim impact statement be withheld from the young person if there are concerns for a victim's safety. If this happens, the judge cannot take this information into account. This is because a young person is entitled to see any information that may affect the outcome of his or her case.

## **Can you read your victim impact statement in the Youth Court?**

You may make a request to the judge to read your victim impact statement to the court, or have the prosecutor or another person read it for you.

When reading your victim impact statement, you may address the court and the young person.

If you are a victim of a 'specified offence', you have the right to read your statement aloud in court, or have the prosecutor or another person read it out on your behalf.

A specified offence is defined in the Victims' Rights Act 2002 and includes:

- an offence of a sexual nature
- a serious assault
- an offence that has resulted in serious injury, death or incapacity; and
- an offence that has led to the victim having on-going fears, on reasonable grounds, for the physical safety of themselves or their family.

If you are a victim of one of these offences, a judge may only refuse your request to read your statement aloud if they consider this is inappropriate because of:

- the number of victims wanting to read their statement aloud
- the age and maturity of the young person
- concerns about the risk of serious disruption to the proceedings
- concerns about the safety of any person.

If this happens, the Police or a Youth Court Victim Advisor will discuss it with you.

## **What happens to a victim impact statement once the case is completed?**

At the end of proceedings, copies of a victim impact statement must be returned to court staff.

Victims, court staff, police officer, prosecutor, or other person allowed by the court may keep a copy. The young person cannot keep a copy without you agreeing.

## **PART 3 – CONTENT OF A VICTIM IMPACT STATEMENT**

Police are available and trained to assist victims to prepare a victim impact statement. If you decide to make one, you should contact the Police Officer in Charge of the case or the Youth Aid Officer.

### **What form should a victim impact statement be in?**

The Police can provide you with a copy of a victim impact statement template.

A victim impact statement does not have to be in the template and can be on any plain A4 sheet of paper. It should be typed and include the following details:

- the case number
- the name of the Police Officer in Charge of the case
- your name and date of birth.

The victim impact statement must be signed by you, or on your behalf, by the Police Officer in Charge of the case.

Victim impact statements do not have to be in writing. If you wish, you can record your statement in another way (for example, by audiotape).

Victim impact statements can include photographs, drawings, or any other visual representation, if they assist the court in understanding how the offence has affected you.

For example, young children may draw pictures to accompany a parent or guardian's victim impact statement. Photographs may be useful for families of victims who have died or been seriously injured to show the court how the victim looked before the offence occurred.

Victim impact statements should be written as clearly and concisely as possible. This helps ensure there is time for the judge to thoroughly consider your victim impact statement, especially if more than one victim provides one. If you choose to read your victim impact statement to the court, the judge may give you a time limit.

If a victim does not speak English as their first language, the Police can arrange for an interpreter to assist. Victims can also submit a victim impact statement in Māori or NZ sign language.

### **What information should be included in a victim impact statement?**

It is important that the content of a victim impact statement is appropriate and includes information that will assist the judge in determining an appropriate outcome.

A victim impact statement should include relevant information on:

- any physical injury or emotional harm you have suffered as a result of the offence
- any loss of, or damage to, property as a result of the offence
- any other effects of the offence on you
- any other information that is consistent with the purpose of a victim impact statement.

Examples of the information to include are:

#### ***Physical injury***

- injuries you received as a result of the offence
- an illness you have developed that relates to the offence
- the type and extent of your injuries, including any long term effects

- any medical treatment you have received
- the impact of the injuries or illness on your lifestyle, e.g. sport or hobbies.

### ***Emotional effects***

- changes in your attitudes or feelings (eg how you feel about yourself and others, whether your outlook on life has changed as a result of the offence)
- changes in your behaviour (eg, change of lifestyle, ways of coping, sleep patterns, eating and drinking habits, sexual behaviour)
- changes in your relationships with spouse, family, friends or work associates
- short and long term mental health trauma (eg, post-traumatic stress disorder, depression and anxiety)
- any counselling you have sought or received.

### ***Financial effects***

- the value and description of any property that has been damaged, lost, or destroyed
- any costs not covered by your insurance or ACC
- financial loss from time off work
- medical, therapy and/or counselling expenses
- lost educational or work opportunities
- consequential loss (ie, the difference between the compensation ACC pays you and your total costs).

The judge can take these costs into account when considering whether the young person should pay reparation.

The court will not necessarily require the young person to pay you reparation. The young person's financial situation will influence whether any fines or reparation can be imposed.

### ***If the victim has died***

If a victim has died as a result of the offence, their family may wish to talk about them and the life they led, as well as the impact on those left behind.

### ***Other information***

You may include information on the impact of the crime on your family, if they agree.

A victim impact statement can include information contained in the 'summary of facts' of the case. However, this should be kept brief because the court already knows what has happened. The victim impact statement should focus on the harm you have suffered.

## What information should not be included in a victim impact statement?

A victim impact statement must not include information that is inconsistent with the purpose of a victim impact statement.

For example, a victim impact statement must not include content that:

- **you know is false** – all information submitted to the court must be truthful. The inclusion of false information could discredit the entire victim impact statement.
- **makes threats** against the young person or their family – threatening to harm a person is a crime and will be dealt with accordingly.
- **is abusive** – comments should focus on how the young person's actions in committing the offence affected you, rather than your views on the young person themselves.
- **is irrelevant** – it is not necessary or appropriate for a victim impact statement to contain information about things that are not relevant to the offence.
- **is confidential** – it is important not to divulge confidential information relating to the victim, young person or any other person.
- **refers to other offences you think the young person committed** – the Youth Court judge cannot consider alleged offending.
- **makes comments about the judge, prosecution, defence, jury or witnesses.**

This list is not exhaustive. It simply gives examples of content that would fall outside the purpose of a victim impact statement.

No-one else can change your victim impact statement without your agreement. However, the prosecutor needs to make sure the content is suitable for the court and might advise you to change it.

The judge can prohibit some or all of a victim impact statement from being read out in court.

This would only occur if there is a good reason e.g., the content is inconsistent with the purpose of a victim impact statement, there is a risk to someone's safety, or there is a chance it would cause serious disruption to the court proceedings.