

The Victim Personal Statement (VPS) scheme

Open Government status: Open

Target audience

All HSE Inspectors and VOs / RCOs

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Summary

This OG describes the purpose and application of the Victim Personal Statement (VPS) scheme. The VPS scheme provides the opportunity to victims to make a VPS under the Victims Code and this guidance provides practical advice on when and to whom it should be applied and disclosure of the VPS to the defence.

As well as reading this guidance warranted staff should make themselves aware of the contents of the VPS leaflet (C120) and the Enforcement Guide (<http://intranet/legal/enforcement-guide-ew/investigation/witness-witness.htm>).

Introduction

This Guidance should be read in conjunction with '[Contact with relatives of people killed through work activities](#)' OG and warranted staff should also make themselves aware of the contents of the VPS leaflet (C120).

The VPS scheme should be applied where an incident or occupational disease:

- has resulted in one or more victims; and
- the case is considered for prosecution.

The victim is invited to make a victim personal statement (VPS) that can, for example:

- inform investigating authorities and the court how they have been affected by the crime, e.g. physically, emotionally, psychologically, financially;
- make known their legitimate interests, such as concerns about intimidation and / or their wish to seek compensation.

Action

How to operate the VPS scheme

The HSE VPS leaflet [English](#)  [Welsh](#)  which explains the scheme, should be given to the victim at the earliest appropriate opportunity. The inspector should ensure that the contact details (towards the back of the leaflet) are completed.

The [Victim's Code](#) provides that a victim can make a VPS at any time before sentence. Inspectors should use their discretion on when to take a VPS from the victim. Alternatively, the victim may wish to complete the VPS in their own time and send it to the inspector.

All victims have the opportunity to make a supplementary VPS adding to an earlier version.

In some cases, e.g. major incidents, the numbers of victims involved may mean it is not practicable to offer every victim the opportunity to make a VPS. Inspectors should nevertheless seek to obtain a VPS to inform investigating authorities and the court how they have been affected by the crime, for example, by identifying one or more people to represent some or all of the victims.

Definition of 'victim'

A victim is defined in the Victims Code as: 'a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence'.

In addition, the scheme will apply to the following groups of people:

- a spokesperson nominated by the close relatives of a person who died in a workplace incident or, if the close relatives cannot choose a family spokesperson, a person nominated by HSE;
- a family spokesperson of a person, harmed as a result of a workplace incident, with a disability or who is so badly injured that they cannot communicate; or
- the parent or guardian of a person under the age of 18 harmed as a result of a workplace incident and their parent or guardian.

Special categories of victim

Please refer to guidance in the Enforcement Guide (England and Wales) for advice on taking statements from particular categories of witnesses e.g. young / vulnerable people

(<http://intranet/legal/enforcement-guide-ew/investigation/witness-witness.htm>).

An interpreter should be used where the victim has difficulty understanding English.

The VPS leaflet is available in English and Welsh, and can be translated into a different language on request. (See 'Translating and Interpreting'

<http://intranet.hse.int/information/interpreting/translations.htm>).

Assessing risk to the victim

The VPS may assist in assessing risk to the victim, including risk arising from the investigation process, e.g. risk of intimidation or risk to the victim's personal health.

Where such risks are identified, the VPS scheme encourages the investigator to consider ways in which they may be able to help alleviate the distress or suffering of the victim.

Inspectors should discuss cases of possible witness intimidation with their line manager before deciding what action to take. Evidence of witness intimidation may be referred to the police

(<http://intranet/legal/enforcement-guide-ew/investigation/witness-witness.htm>).

Work related deaths

Where the police, or other enforcing authority, has primacy for an investigation under the Work-Related Deaths Protocol (WRDP) it will be necessary to liaise with them, and where available the police 'Family Liaison Officer', to agree a strategy for applying the VPS scheme.

Case preparation and approval

Inspectors often record in statements taken for evidential purposes the impact the incident has had on e.g. injured people. However, victims should additionally be invited to make a separate VPS.

Should a VPS include new evidential material, inspectors should consider whether to open additional lines of enquiry and / or take a further witness statement. The VPS should be considered as part of the public interest test stage in prosecution decisions.

Initial details and disclosure to the Defence, and how the VPS is used in Court proceedings

In court proceedings the VPS allows the court to take account of the consequences of the offence to the victim. No inference should be drawn if the victim does not wish to make a VPS.

Advice on the disclosure of material, both used and unused, to the defence and the court is given in the Enforcement Guide

(<http://intranet/legal/enforcement-guide-ew/pretrial/after-intro.htm>). Case-specific advice may be obtained from the lawyer dealing with the case, or where there is no lawyer dealing with the case, from Legal Adviser's Office.

The VPS should be disclosed to the defence as part of the initial details before the hearing and brought to the attention of the Court.

Before forwarding to the defence, a check should be made whether the statement contains any "sensitive material", as defined in the CPIA Code of Practice. If it does, then the sensitive material should be redacted before sending to the defence.

Guidance to inspectors / VOs / RCOs on taking a VPS

Before a VPS statement is taken the following points should be emphasised:

- a VPS is voluntary and no inferences will be drawn if one is not made;
- it is a means by which the victim can tell the enforcing authority and the courts how the incident has affected them. It can say as much or as little as the victim wishes to say;
- it will be subject to a declaration of truth and once completed and signed it cannot be altered or withdrawn. It is possible for a further statement to be submitted offering clarification or correction of anything said;
- it will form part of the investigation papers and will be disclosable to the defence if an offender is prosecuted;
- it will be available to all within the criminal justice system who subsequently deal with the case. It will be taken account of where it is considered in the public interest to do so, however it may not be acted upon at all, or any action that is taken may not be obvious;
- while the court can take into account the effect a crime has had on the victim, it will not take into account any opinion the victim expresses as to how the offender, if convicted, should be punished; and
- the VPS may be reported on in the media and that it is possible (although rare) that the victim may be asked questions about their VPS in court.

Where the victim is making a witness statement and wishes to make a VPS, the VPS should be taken on a separate statement form (LP70). The VPS will normally be recorded by the inspector and should start with the following words:

I have been given HSE's victim personal statement (VPS) leaflet and the VPS scheme has been explained to me. What follows is what I wish to say in connection with [necessary details of incident]. I understand what I say may be used in various ways and may be disclosed to the defence, if this investigation leads to a prosecution.

It should be possible for anyone reading a VPS in isolation to understand exactly which event or offence is being referred to. The statement should therefore contain the necessary details to ensure this is the case, e.g. relevant dates, times, locations.

It is important that the VPS is recorded in the victim's own words and that ultimately the victim decides what information to include. The inspector can give general advice but should take care not to lead the victim in a way that might subsequently prejudice the integrity of the statement.

Where the victim indicates that they do, or may, wish to make a VPS, but would like time to consider it, the inspector should provide the victim with a copy of the VPS leaflet and a LP70 statement form with the introduction already drafted and ask the victim to return the completed VPS to the inspector at the address provided.

A supplementary VPS, if requested, allows the victim to:

- describe the longer-term effects the crime may have had;
- add to or update anything in a previous statement.

Where the victim has made a previous VPS, the supplementary statement should normally explain why they are making a second statement. A supplementary statement should start with the following words:

I have been given HSE's victim personal statement (VPS) leaflet and the VPS scheme has been explained to me. What follows is what I wish to say in connection with [necessary details of the incident], in addition to what I said in my previous victim personal statement dated [date]. I understand what I say may be used in various ways and may be disclosed to the defence, if this investigation leads to a prosecution.

Scotland

The VPS scheme does not extend to health and safety cases. If the IP or next of kin wish to discuss making a statement that should be advised to discuss it with the COPFS through the VIA appointed by them to liaise with the family once the case has been submitted.

Health and Safety

Principal Inspectors should be aware of such work involving their staff and should ensure that internal guidance is followed. See Supporting staff who may be or have been exposed to traumatic events on HSE's Intranet. .

Contacts

Legal Adviser's Office.