

Appendix 2: Recommendations

For research

1. Collection of VIS statistics in all NSW courts to include:
 - a. demographic details of VOC
 - b. nature of matter
 - c. whether sentencing post-trial or guilty plea
 - d. VOC relationship to offender, if any
 - e. VIS presented orally, tendered or not presented
 - f. judicial/magistrate response to VIS
 - g. media access to VIS
 - h. sentence details.
2. Content analysis of VIS from initial draft through edit process, if any, to final VIS presented at court.
3. Qualitative study based on in-depth interviews with offenders in prison regarding the impact of the victim impact statement on their understandings of the consequences of the crime for the victim, the level of responsibility they acknowledge for those consequences whether foreseen or unforeseen, and whether they have made any behavioural change since hearing/reading the VIS. The study would also incorporate the offender's understanding of the purpose of VIS.

To improve VIS process

1. Central information line for VOC to call regarding VIS questions.
2. A VIS video available online outlining VIS purpose, content and presentation and addressing concerns raised by the study.
3. VIS information sheet available at Local Courts.
4. Standard protocols for the presentation of oral VIS in Supreme, District and Local Court.
5. Standard protocol for judges and magistrates to orally acknowledge an oral or tendered VIS in summation prior to sentencing.
6. Facility to present oral or tendered primary or family VIS in matters where offender is found not guilty due to mental illness/diminished

responsibility. Currently VIS are not permitted to be presented in these matters, where although it has been proved the offender committed the crime, a not guilty verdict has been made due to the offenders responsibility for the crime being diminished due to mental illness.

7. Education regarding presentation of VIS at the Local Court for police/police prosecutors/defence/magistrates.
8. Education regarding the complexities and emotional challenges VOC endure to make a VIS for those prosecuting, defending and judging matters.
9. Ability to apply for financial aid for VOC wishing to attend sentencing to make a VIS who are financially prohibited from doing so.
10. Standardised protocols regarding information given by victim support agencies to VOC regarding VIS.

Appendix 3: Resources

Resource 1

VIS Tick Sheet: Aspects to consider for clients making a VIS

For use by victim support agents

Factors that assist a positive therapeutic VIS consequence for VOC	Factors that may complicate a positive therapeutic VIS consequence for VOC
Personal factors	Personal factors
No concerns regarding personal/familial safety	Concerned for personal safety or that of family
Positive sense of self	Poor sense of self
Personal autonomy	Lack of personal autonomy
Personal belief in self-efficacy	Lack of personal belief in self-efficacy
Good mental health	Negative mental health
Able to consider and discuss future	Cannot contemplate or discuss future
Positive belief in personal literacy	Negative belief in personal literacy
Perception of being at no fault	Misguided perception of somehow being at fault
Gender	Gender
Member of dominant culture*	Member of a minority culture
Age 30 years and over	Age under 30 years
Member of individualist culture	Member of a collective culture
English speaker	Non-English speaker
No previous involvement with police or CJS	Previous involvement with police or CJS
Interpersonal factors	Interpersonal factors
Never or no longer involved in a relationship with the offender	Has been or is still involved in a relationship with the offender
No children with the offender	Shared children with the offender
Supportive family/friend network	Unsupportive family/friend network

Factors that assist a positive therapeutic VIS consequence for VOC	Factors that may complicate a positive therapeutic VIS consequence for VOC
Supportive police	Unsupportive police
Supportive victim service agencies	Unsupportive victim service agencies
Supportive prosecuting services	Unsupportive prosecuting services
No ambiguous feelings towards the offender	Ambiguous feelings towards the offender
Positive reaction from judge/magistrate to VIS	Negative reaction from judge/magistrate to VIS
Acknowledgement of VIS by offender	Negative or lack of acknowledgement of VIS by offender
Process factors	Process factors
Nature and seriousness of crime	Nature and seriousness of crime
Higher court matter	Local Court matter
Positive experience of trial/plea process	Negative experience of trial/plea process
Received information regarding VIS	Did not receive information regarding VIS
Was able to comprehend VISIP	Was not able to comprehend VISIP
Understands purpose and legal limitations of VIS	Does not understand purpose and legal limitations of VIS
The likelihood of cross-examination has been discussed	The likelihood of cross-examination has not been discussed
Has been informed of time frame to prepare VIS	Not informed of time frame to prepare VIS
Has adequate time to prepare VIS	Inadequate time to prepare VIS
Is consulted and understands why VIS is edited	Not consulted and/or does not understand why VIS is edited
Understands sentencing process	Lacks understanding regarding sentencing process
Has been consulted and discussed presentation of VIS at sentencing hearing	Has not been consulted or has not discussed presentation of VIS at sentencing hearing
Judicial reference made to VIS	No Judicial reference made to VIS
Does not expect VIS to affect sentence	Expects VIS to affect sentence
Follow-up—VOC not present at sentencing	No follow-up—VOC not present at sentencing

* To include religion/sexual orientation/disability

How to use the tick sheet

This tick sheet is designed to assist workers supporting VOC during the preparation, presentation and follow-up processes of the VIS.

The tick sheet is intended to highlight factors affecting VOC that may have the potential to:

- complicate their decision to make a VIS
- affect their ability to prepare a VIS
- affect the personal consequences of their VIS presentation.

Designed as a prompting tool, the tick sheet is not intended to be comprehensive. Workers are encouraged to amend it to suit their own use, particularly in specialised services dealing with victims of specific crimes.

Trauma was shown by the study to impact the ability of VOC to comprehend information and to engage with the VIS processes. Trauma is not a specific feature on the tick sheet, but victims appearing or reporting being highly traumatised will need additional support in the early stages of the VIS process because their ability to comprehend and retain information and make informed decisions can be significantly impaired.

Resource 2

The 'SLOW' VIS practice model

The acronym SLOW has been devised as a model of practice for victim service professionals supporting VOC contemplating making a VIS. It is intended to assist workers not only to explore the process of making a VIS in some depth with VOC (to include potential challenges in preparing and presenting a VIS) but also to allow VOC an opportunity to air their hopes for their VIS so that those supporting them can manage their expectations, and the realities of what the VIS affords victims can be discussed and considered.

S	Safe
L	Listen
O	Options
W	Wellbeing

SLOW: VIS support model

Safe

Check safety issues.

- Does the victim feel safe? If they report that they feel unsafe, are their fears realistic?
- Do they feel making a VIS potentially increases the risk to their physical safety? If so, is this fear realistic?
- Do they feel making a VIS potentially increases the risk to their mental health? If so, is this fear realistic?

Listen

Listen to understand, as well as to inform. Use active listening skills.

- Why does the victim want to make a VIS?
- What do they hope to achieve by making a VIS?
- Who do they want it to be heard by?
- Do they expect their VIS to impact sentence? Are their hopes realistic?

Options

Empower through information and choice.

- What is the purpose of the VIS and what benefits could it provide for the victim?
- Go through the VISIP with them.
- Do they face challenges in writing the VIS? How can these be overcome?
- What may happen during the VIS process; include the VIS being edited, challenges to the VIS in cross-examination, the VIS not being acknowledged by the offender or judiciary.
- What are the options for presenting a VIS, and what are the different implications?
- Is making a VIS the best way for them to achieve their hopes? Discuss options.
- What are the implications if they choose not to make a VIS?

Wellbeing

Check victim's mental health status, support and vision post-sentencing:

- How is the victim coping currently?
- How traumatised are they?
- What are their supports?
- Do they need more support?
- How do they view their criminal justice process to this point?
- How do they see the future after the criminal justice process and sentence?