

Assessing a work related death claim

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Introduction

Where an employee dies from a condition arising out of, or in the course of, employment:

- lump sum compensation is payable to their dependants under section 17 of the SRC Act and
- compensation is payable for the reimbursement of funeral expenses under section 18, to the payer of the funeral.

A claim can be submitted using the claim form [Compensation for a Work Related Death](#). When a claim for work related death is received, it is registered by CAIS and determined by the Specialised Claims Team (SCT).

For the purposes of managing death claims, the term 'claimant' will be taken to mean the dependant(s) making the claim for work-related death.

Note: The claimant may indicate that they intend to take other action to recover personal injury damages, or expenses against another person or entity. In this case, further information may need to be obtained to establish any potential third-party recovery action.

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Procedure for initial assessment upon receipt of a death claim

The following procedure details how to assess a death claim.

Step 1: Review the claim form and any other information received.

Ensure that the following information (if relevant) has been provided:

- death certificate (a death claim is 'non compliant' if there is no cause of death)
- medical evidence
- evidence of the employee's employment
- evidence of dependency (of dependants), and
- signed authority for the release of information from an authorised person.

For examples of proof of dependency, refer to the [Paying for dependents](#) page.

Step 2: Determine if relevant legislative tests have been met and conduct Triage.

Ensure there is evidence to support the legislative tests that:

- the claim is in regard to an employee as defined in SRC Act (section 5)
- written notice of the injury/death was provided as soon as practicable (or is taken to have been provided as soon as practicable)
- the condition that resulted in death arose out of the course of the employee's employment, or was significantly contributed to by the employee's employment.

Note: Consider whether any presumptive legislative provisions (section 7) apply to the claimed condition as this may change the relevant legislative tests above.

At [Triage](#), consider and discuss the following:

- the need for further medical evidence, such as medical reports, clinical notes, hospital or ambulance records

- the need for a specialist to conduct a file review on the evidence held on the claim file (see [File review by the Clinical Panel or a legally qualified medical practitioner](#) for more information)
- the need for the file to be reviewed by the Clinical Panel (see [File review by the Clinical Panel or a legally qualified medical practitioner](#) for more information)
- the need for further information from the claimant, e.g. evidence of dependency
- any further information required from the employer.

Note: You may need to establish if a person is an 'employee' under the SRC Act or you may require employment records. In this case, consider making enquiries with the National Archives of Australia or the National Library of Australia.

The Australian Public Service Employment Database (APSED) also stores the employment data of all current and former APS employees. APSED is maintained by the Australian Public Service Commission and the data is supplied to APSED from the HR systems of APS agencies. Contact the [APSC](#) mailbox.

Step 3: Phone the claimant or their representative within 72 hours of receiving the death claim and advise:

- that the claim has been received
- of the claims process and timeframes
- of information and reports that will be requested
- of the information/documents they are required to provide
- of which required documents must be certified as true copies, and
- ask for a contact email address (if not already provided).

Step 4: Phone the employer.

Discuss the death claim and request an employer statement.

Note: Where the employer has not been identified and investigations are required to ascertain employee status, contact the potential employer by phone before sending a written request.

Step 5: Request further medical evidence.

Contact relevant stakeholders to provide you with the medical evidence you need to assess and determine the claim. The stakeholders will be identified during Triage and your review of the claim information.

Step 6: Send emails requesting information.

Email the claimant and Rehabilitation Case Manager (RCM) requesting any information required.

Step 7: Update Pracsys:

- check all e-docs in Pracsys and ensure that they have been labelled correctly
- ensure the date of death in Pracsys is entered correctly.

Step 8: Create a task in Pracsys.

Go to 'Manage Initial Liability Assessment' (MILA) and create a task with the relevant due date (20 days for injury resulting in death, e.g. heart attack at work. 60 days for a disease, e.g. mesothelioma). Record all your conversations in the comments section.

Unless the claim is for an asbestos-related death, end the procedure here.

Step 9: For an asbestos-related death, has the exposure period been entered in Pracsys?

For long-latency disease claims that involve exposure prior to 1 December 1988:

- tick the box 'Pre 01-Dec-1988 Exposure' date field, and
- enter the exposure date in the 'Pre 01-Dec-1988 Exposure' date field.

If the date of first exposure cannot be identified but it can be ascertained:

- that the employee was employed by the Commonwealth, and
- the employee would have suffered exposure prior to 1 December 1988,

then the date taken to be the date of exposure will be 30 November 1988.

See: [Liability assessment and decision making](#) for further information.

The procedure ends here.

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Requesting information to support assessment and decision making

You may need to collect further information from a claimant, employer, treating medical practitioner or coroner's office to support assessment and decision making on a work-related death claim. A claimant or employer may not wish to provide further supporting information or evidence. In that case, the claim will be assessed on the information available to you at the time of the determination. For further guidance, refer to the [Gathering claim information](#) page.

Evidence that can be collected to assist in the assessment of liability for a death claim can include but is not limited to:

- police reports
- clinical notes
- coroner's report
- medical reports
- hospital records
- medical certificates
- diagnostic imaging reports
- details of activities incidental to or not related to employment
- statements from the claimant, work colleagues and/or the employee's employer
- employment records (i.e. duration of employment, nature of the employee's duties).

Requesting evidence from a claimant

See [Requesting information from employees](#) for an overview of relevant procedures.

A claimant may be asked to provide a statement of facts in support of the death claim.

Requesting evidence from an employer

See [Requesting information from employers](#) for an overview of relevant procedures.

An employer can be asked to provide a statement of facts in response to a death claim. You can use letter template *822 – Section 71: Employer Statement Request* in Pracsys.

Examples of the types of documents that may be requested from an employer to support making a decision about a work-related death can include, but are not limited to:

- copies of emails
- duty statements
- incident notice
- investigation report
- witness statements
- sick leave records
- file notes/records of conversations
- pre-employment checks, such as health clearances
- employment records (i.e. evidence of employment, duration of employment, nature of the employee's duties).

Requesting evidence from a medical practitioner

To support your assessment, you may request:

- a medical report
- copies of the practitioner's clinical notes
- copies of hospital and ambulance records if relevant. **Note:** An Authority from the Executor of the Estate might be required before hospitals will send information to Comcare.

For further guidance, refer to the [Obtaining medical report or clinical notes](#) page.

Requesting evidence from a Coroner's office

If the cause of the deceased employee's death is unknown, you will need to contact the relevant coroner's office. You need to advise them that Comcare has received a claim, and request a copy of the coroner's report, when available.

Cause of death

A death claim cannot be determined without a cause of death. This means liability can take several months (or longer) to determine if the death is subject to a Coroner's enquiry. Claims received without a cause of death should remain 'non-compliant' in Pracsys.

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File Review by the Clinical Panel or a legally qualified medical practitioner

When determining liability for a work-related death, you may require a specialist opinion to support assessment and decision making.

For work-related death claims, this is usually in the form of a file review. A file review may be required in circumstances where:

- the cause of death is unknown
- medical information received is inconsistent
- the death is not directly connected to a compensable condition
- there are possible multiple causes of death.

File review by the Clinical Panel

You may request the Clinical Panel to complete a file review on a deceased employee's medical records and claim information. The Clinical Panel can provide you with guidance on what questions need to be asked of a legally qualified medical practitioner (LQMP) regarding the death of the employee. It can also assist with interpreting responses provided in medical evidence and reports from LQMPs or treating practitioners, as well as hospital records.

For further guidance on the process of arranging a Clinical Panel referral, refer to the [Undertaking a clinical panel review](#) page.

File review by legally qualified medical practitioner

You may require additional medical evidence or a specialist opinion. This may require you to arrange for a legally qualified medical practitioner (LQMP) to conduct a file review on the evidence held on the deceased employee's claim file.

You can request the LQMP to provide a report on how the deceased employee's employment is related to the illness or injury suffered that resulted in the death.

For further guidance on the process of arranging an independent medical examination, refer to the [Independent medical examinations](#) page.

To assist in the timely determination of the claim, the report should be requested with a due date of **seven calendar days**.

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