



Department of Health

COVID-19 VACCINE CLAIMS SCHEME POLICY 2021

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Details of amendments to this Policy are shown in Schedule 2

TABLE OF CONTENTS

COVID-19 VACCINE CLAIMS SCHEME POLICY 2021

Part 1 Preliminary	4
1 Name and purpose	4
2 Definitions	4
3 Application of Scheme	18
4 Claims that can be made – Tier 1 and Tier 2 claims	18
5 Claims that can be made – Tier 3 claims	19
6 Waiver of the Hospitalisation Requirement for Tier 1 and Tier 2 claims	20
Part 2 Submitting a Claim	20
7 Submission of Claim	20
8 Determination of Claims	21
Part 3 Compensation	21
9 When Compensation is payable	21
10 Compensation available for Tier 1 and Tier 2 claims	23
11 Compensation available for Tier 3 claims	23
12 Assessment and determination of Compensation	23
13 Costs not recoverable under the Scheme	23
Part 4 Claims – Supporting documentation and other information	24
14 Supporting documentation and other information to be provided	24
15 Collection, use and disclosure of information	25
16 Supporting Evidence – Medical Report (all Claims)	25
17 Supporting Evidence – Hospitalisation Requirement (Tier 1 and Tier 2 claims)	28
18 Supporting evidence and eligibility – Out of Pocket Expenses (Tier 1 and Tier 2 claims)	29
19 Supporting evidence and eligibility – Lost Earnings (Tier 1 and Tier 2 claims)	31
20 Supporting evidence and eligibility – Pain and Suffering (Tier 1 and Tier 2 claims)	32
21 Supporting evidence and eligibility – Care Services (Tier 1 and Tier 2 claims)	33
22 Supporting evidence and eligibility – Tier 3 Claims	36
23 Assessment and determination to be based on documentary material	40
24 Additional Supporting Evidence	40
Part 5 Assessment of Claims	41

25	Assessment of Tier 1 claims and initial assessment of Tier 2 and Tier 3 claims	41
26	Initial Medical Assessment of Tier 2 and Tier 3 Claims by Department Medical Officers	42
27	Independent Expert Panel	43
28	Member of the Independent Expert Panel to Assess Tier 2 Claims	44
29	Member of the Independent Expert Panel to Assess Tier 3 Claims	44
30	Panel Secretariat	44
31	Referral to AHPRA	44
Part 6 Offers and Acceptance of Compensation and Settlement Deed		45
32	Communication of decisions	45
33	Compensation Offer may be accepted	45
34	Payment of Compensation	45
35	Settlement Deed	45
36	Compensation for Tier 3 claims	47
37	Taxation treatment of Compensation	49
38	Declining to accept an offer of Compensation	49
Part 7 Review of Decisions in relation to Claims		50
39	Review of Decisions in respect of Claims	50
Schedule 1		52
Schedule 2	Details of amendments to this Policy	61

Part 1 Preliminary

1 Name and purpose

- (1) This is the Policy in relation to the *COVID-19 Vaccine Claims Scheme* being the program specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (Cth), Schedule 1AB, Part 4, Item 506 (the **Scheme**).
- (2) This Policy:
 - (a) describes the basis on which the Commonwealth may make a grant of financial assistance to a person who submits a Claim for Compensation; and
 - (b) sets out the rules that govern the arrangements made for the purposes of the Scheme under section 32B(1) of the *Financial Framework (Supplementary Powers) Act 1997* (Cth).
- (3) This Policy may be varied from time to time. Any variation will be published and will take effect from the date or dates set out in the varied document.
- (4) The Secretary is the Accountable Authority under the *Financial Framework (Supplementary Powers) Act 1997*.
- (5) Delegations will be in place from the Secretary to designated officers in Services Australia that provide the power to authorise the payment of financial assistance granted under the Scheme.
- (6) The *Acts Interpretation Act 1901* (Cth) applies to this Policy as if the document was an instrument to which section 46 of that Act applies.

2 Definitions

In this Policy:

\$ means an Australian Dollar.

AHPRA means the Australian Health Practitioner Regulation Agency.

Approved Claim Form means the form that is approved by Services Australia for the purpose of making a Claim or any other document approved by Services Australia for that purpose.

Assessor means:

- (a) in respect of a Tier 1 claim:
 - (i) an officer in Services Australia; or
 - (ii) if the Claim is referred by Services Australia to the Independent Expert Panel, a member of the Independent Expert Panel;
- (b) in respect of a Tier 2 claim, a member of the Independent Expert Panel; and
- (c) in respect of a Tier 3 claim, a member of the Independent Expert Panel.

Assisted Care means any of the following kinds of care provided by someone other than the COVID-19 Vaccine Recipient (whether or not the care is provided gratuitously):

- (a) any respite care (being care that includes accommodation that is provided by a person other than the COVID-19 Vaccine Recipient to a Care Recipient, who is aged or frail, or who suffers from a physical or mental disability, with the primary purpose of giving the Care Recipient or the COVID-19 Vaccine Recipient, or both, a break from their usual care arrangements); or
- (b) without limiting sub-clause (a), if the Care Recipient is a Minor, any care provided to the Care Recipient where:
 - (i) the person is a parent of the Care Recipient (whether biological, as a result of adoption or otherwise (including a step-parent)) or legal guardian; and
 - (ii) the care includes the provision of accommodation to the Care Recipient.

Attendant Care Services means any of the following:

- (a) services of a domestic nature;
- (b) services relating to nursing; or
- (c) services that aim to alleviate the consequences of the Harm,

and which:

- (d) have been or are to be provided to the COVID-19 Vaccine Recipient;
- (e) are most likely required as a result of the Harm; and
- (f) for which the COVID-19 Vaccine Recipient has not been and is not entitled to be paid or reimbursed by a Third Party Payer.

Average Weekly Earnings Amount means the amount of \$1,737.10.

Care Recipients means any of the following persons provided that they are wholly or partly dependent on the COVID-19 Vaccine Recipient at the time the Harm was suffered:

- (a) the person to whom the COVID-19 Vaccine Recipient is legally married;
- (b) a person who was in a de facto relationship with the COVID-19 Vaccine Recipient (as that term is defined in section 4AA of the *Family Law Act 1975* (Cth));
- (c) a child, grandchild, sibling, uncle, aunt, niece, nephew, parent or grandparent of the COVID-19 Vaccine Recipient (whether biological, derived through adoption or otherwise);
- (d) any other person who is a member of the COVID-19 Vaccine Recipient's household; or
- (e) any unborn child of the COVID-19 Vaccine Recipient and who is born after the Harm.

Care Services means any one or more of the Paid Attendant Care Services, Gratuitous Attendant Care Services, and Loss of Capacity to Provide Domestic Services.

Claim means a Tier 1 claim, Tier 2 claim or Tier 3 claim.

Claimant means a person who submits a Claim.

Commonwealth Government Approved Program means the administration of a COVID-19 Vaccine to individuals under the:

- (a) arrangements made and approved by the Commonwealth Government for the administration of COVID-19 Vaccines in Australia; and
- (b) Australian Government Overseas Network (AGON) which is managed by the Commonwealth Government Department of Foreign Affairs and Trade and the Commonwealth Government Department of Defence.

Compensation means:

- (a) for a Tier 1 claim or a Tier 2 claim - one or more of the following items:
 - (i) reimbursement of Past Loss;
 - (ii) compensation for Future Loss; and
 - (iii) compensation for Pain and Suffering,

but does not include items or amounts which have been or are entitled to be paid or reimbursed by a Third Party Payer,

- (b) for a Tier 3 claim - one or more of the following items:
 - (i) the Tier 3 Dependant Lump Sum Payment or the Tier 3 Non-Dependant Lump Sum Payment (less any items or amounts which have been or are entitled to be paid or reimbursed by a Third Party Payer, but for this purpose, any amount received from a life insurer of the Deceased COVID-19 Vaccine Recipient is not to be taken into account); and
 - (ii) reimbursement of Funeral Expenses (but does not include expenses which have been or for which there is an entitlement to be paid or reimbursed by a Third Party Payer, but for this purpose, any amount received from a life insurer of the Deceased COVID-19 Vaccine Recipient is not to be taken into account).

Compensation does not include, and will not be paid in respect of costs captured by clause 13.

COVID-19 Vaccine means a vaccine included in the Australian Register of Therapeutic Goods that is indicated for active immunisation to prevent coronavirus disease 2019 (COVID-19) caused by SARS-CoV-2.

COVID-19 Vaccine Administration Related Harm means:

- (c) either a clinically diagnosed:
 - (i) shoulder injury; or
 - (ii) other moderate to significant physical injury giving rise to permanent impairment or the need for an extended period of medical treatment but excluding psychological distress (e.g. shock); and
- (d) that was sustained during the administration of a COVID-19 Vaccine; and
- (e) that was most likely caused by the administration of the COVID-19 Vaccine and less likely caused by any of the COVID-19 Vaccine Recipient's other circumstances.

COVID-19 Vaccine Recipient means a person who received the COVID-19 Vaccine under a Commonwealth Government Approved Program (including a Deceased COVID-19 Vaccine Recipient), excluding a Seafarer.

COVID-19 Vaccine Related Harm means a clinical condition developed by the COVID-19 Vaccine Recipient:

- (a) that is diagnosed by a Treating Practitioner; and
- (b) is included in:
 - (i) the Product Information in relation to the COVID-19 Vaccine received by the COVID-19 Vaccine Recipient; and
 - (ii) Table 1 below but only if the clinical condition referred to in column 1 results from the COVID-19 Vaccine referred to in the same row in column 2; and

Table 1

	Column 1	Column 2
Item	Clinical condition	Person in whose name an Applicable COVID-19 Vaccine(s) is included in the Register
1	Anaphylactic reaction	AstraZeneca Pty Limited Pfizer Australia Pty Limited Moderna Australia Pty Limited Bioclect Pty Ltd (for registration of Novavax vaccine)
2	Thrombosis with Thrombocytopenia Syndrome	AstraZeneca Pty Limited
3	Myocarditis	Pfizer Australia Pty Limited Moderna Australia Pty Limited

4	Pericarditis	Pfizer Australia Pty Limited Moderna Australia Pty Limited
5	Capillary leak syndrome	AstraZeneca Pty Limited
6	Demyelinating disorders including Guillain Barre Syndrome (GBS)	AstraZeneca Pty Limited
7	Thrombocytopenia, including immune Thrombocytopenia, identified as a final diagnosis	AstraZeneca Pty Limited

Note 1: Further clinical conditions may be added to this Table by amendment if new clinical conditions are added to the Product Information for the specific COVID-19 Vaccine and when verified by the Therapeutic Goods Administration as a serious clinical condition to be covered under the Scheme.

Note 2: Under the Australian Register of Therapeutic Goods (ARTG), an Australian sponsor is responsible for applying to the Therapeutic Goods Administration to lawfully supply goods in Australia. Bioelect Pty Ltd registered the Nuvaxovid (Novavax) vaccine on behalf of Novavax Inc in accordance with the Therapeutic Goods Act 1989 requirements.

- (c) was most likely caused by the COVID-19 Vaccine and less likely caused by any of the COVID-19 Vaccine Recipient's other circumstances.

Deceased COVID-19 Vaccine Recipient means a COVID-19 Vaccine Recipient who suffered Harm (within the definition of Harm as at the date on which a Claim was received by Services Australia) which caused, or materially contributed to, their death.

Decision Maker means a delegate of the Secretary of the Department in accordance with section 32D of the *Financial Framework (Supplementary Powers) Act 1997* (Cth).

Decision Maker on Review means the person referred to in clause 39(3).

Department means the Commonwealth Department of Health.

Dependant means any of the following persons:

- (a) a person who was in a de facto relationship (as that term is defined in section 4AA of the *Family Law Act 1975* (Cth)) with the COVID-19 Vaccine Recipient, at the time the Deceased COVID-19 Vaccine Recipient died;
- (b) a child of the COVID-19 Vaccine Recipient (whether biological or derived from adoption or otherwise) who was wholly, mainly or partly dependent on the earnings of the COVID-19 Vaccine Recipient at the time the Deceased COVID-19 Vaccine Recipient died;
- (c) a child born after the death of the Deceased COVID-19 Vaccine Recipient where the Deceased COVID-19 Vaccine Recipient is that child's parent (whether biological, derived from adoption or otherwise); and

- (d) any other person that was wholly, mainly or partly dependent on the earnings of the COVID-19 Vaccine Recipient at the time the Deceased COVID-19 Vaccine Recipient died.

Eligible Claimant means:

- (a) for a Tier 1 claim, a COVID-19 Vaccine Recipient who has:
 - (i) suffered Harm (within the definition of Harm as at the date on which the Claim was received by Services Australia);
 - (ii) claims a Loss Less Pain and Suffering Amount of between:
 - (A) \$1,000.00 and \$15,999.99 if Pain and Suffering is claimed; and
 - (B) \$1,000.00 and \$19,999.99 if Pain and Suffering is not claimed; and
 - (iii) satisfies the Hospitalisation Requirement, unless waived in accordance with clause 6,

or a Tier 1 or Tier 2 Authorised Representative or Tier 1 or Tier 2 Legal Representative on behalf of a COVID-19 Vaccine Recipient who satisfies (i) to (iii).

- (b) for a Tier 2 claim, a COVID-19 Vaccine Recipient who has:
 - (i) suffered Harm (within the definition of Harm as at the date on which the Claim was received by Services Australia);
 - (ii) claims a Loss Less Pain and Suffering Amount of:
 - (A) (A) \$16,000.00 or more if Pain and Suffering is claimed; and
 - (B) (B) \$20,000.00 or more if Pain and Suffering is not claimed; and
 - (iii) satisfies the Hospitalisation Requirement, unless waived in accordance with clause 6,

or a Tier 1 or Tier 2 Authorised Representative or Tier 1 or Tier 2 Legal Representative on behalf of a COVID-19 Vaccine Recipient who satisfies (i) to (iii).

- (c) for a Tier 3 claim:
 - (i) a Tier 3 Estate Representative;
 - (ii) a Tier 3 Authorised Representative; or
 - (iii) a Tier 3 Family Representative (subject to clause 5(1)).

End Date means the date that is two years after the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020 made under section 475 of the Biosecurity Act 2015 (Cth) ceases to be in force.

Funeral Expenses means reasonable expenses incurred in connection with the funeral, and burial or cremation, of a Deceased COVID-19 Vaccine Recipient up to a maximum of \$15,000.00 but does not include expenses which have been or for

which there is an entitlement to be paid or reimbursed by a Third Party Payer (such as a workers compensation insurer who provides cover in respect of funeral expenses) but for this purpose, any amount received from a life insurer of the Deceased COVID-19 Vaccine Recipient is not to be taken into account.

Further Related Harm is defined in clause 4(1)(a).

Future Loss means for Tier 1 and Tier 2 claims, the value of the COVID-19 Vaccine Recipient's future expected:

- (a) Out of Pocket Expenses;
- (b) Care Services; and
- (c) Lost Earnings.

For the avoidance of doubt, Future Loss does not include items which have been or are entitled to be paid or reimbursed by a Third Party Payer.

Gratuitous Attendant Care Services means Attendant Care Services that:

- (a) have been or are to be provided to the COVID-19 Vaccine Recipient; and
- (b) for which the COVID-19 Vaccine Recipient (or someone else on their behalf) has not paid and is not liable to pay.

Gratuitous Domestic Services means services of a domestic nature for which the person providing the service has not been paid or is not liable to be paid.

Harm means COVID-19 Vaccine Related Harm or COVID-19 Vaccine Administration Related Harm but excludes the following:

- (a) contracting COVID-19;
- (b) psychological and psychiatric conditions;
- (c) secondary injuries (such as injury suffered when fainting, or a haematoma at the injection site that becomes infected); and
- (d) any of the following unless they form part of the symptom complex of COVID-19 Vaccine Related Harm:
 - (i) headache;
 - (ii) fatigue;
 - (iii) injection site reaction;
 - (iv) muscle or joint pain;
 - (v) dizziness;
 - (vi) diarrhoea;
 - (vii) pain in extremity;
 - (viii) fever;
 - (ix) insomnia;
 - (x) nausea;
 - (xi) vomiting;

- (xii) lethargy;
- (xiii) hyperhidrosis;
- (xiv) chills;
- (xv) decreased appetite;
- (xvi) malaise;
- (xvii) lymphadenopathy;
- (xviii) somnolence;
- (xix) abdominal pain;
- (xx) pruritus;
- (xxi) urticaria/rash;
- (xxii) influenza-like illness;
- (xxiii) angioedema; and
- (xxiv) anxiety-related reactions such as hyperventilation and fainting.

Hospital means a public or private hospital.

Hospitalisation Requirement means the requirement that the COVID-19 Vaccine Recipient be admitted to a Hospital as an inpatient for treatment related to the Harm.

Income means the COVID-19 Vaccine Recipient's individual average weekly earnings received through their employment or business operations.

Independent Expert Panel or **Panel** means the legal service providers, who are experienced in personal injury claims and administrative law, engaged to assess Claims and make recommendations in accordance with this Policy.

Loss Less Pain and Suffering Amount means Past Loss and Future Loss, excluding:

- (a) any amount claimed for Pain and Suffering; and
- (b) items or amounts which have been or are entitled to be paid or reimbursed by a Third Party Payer.

Loss of Capacity to Provide Domestic Services means a loss of capacity to provide Gratuitous Domestic Services which was most likely caused by the Harm.

Lost Earnings means the amount of Income, calculated on a gross or pre-tax basis, which has not been, or will not be, received by the COVID-19 Vaccine Recipient most likely as a result of the Harm, but excluding:

- (a) Income which has been or is entitled to be paid or reimbursed by a Third Party Payer;
- (b) any paid sick leave entitlements;
- (c) any income-related government social security payments or benefits paid or payable to the COVID-19 Vaccine Recipient (for example, the COVID-19 Disaster Payment), during the period in which the

Harm is suffered except to the extent that any such payments or benefits were most likely reduced as a result of the Harm; and

- (d) any loss of business profits or adverse impacts on business operations, except to the extent that the COVID-19 Vaccine Recipient's individual Income is reduced as a result of the Harm.

Maximum Compensation Benchmark means the maximum amount that may be paid as Compensation in relation to a Claim unless the Decision Maker determines to award a higher amount in accordance with item 1(4) of Schedule 1.

Note: While the Maximum Compensation Benchmark is not expected to be exceeded in most circumstances, the Assessor may recommend, and/or the Decision Maker may determine, to award an amount above the Maximum Compensation Benchmark in accordance with Schedule 1 to this Policy.

Medical Officer means a person engaged by the Department as a medical officer under the *Public Service Act 1999* (Cth) or contract.

Note: A Department of Health employee undertaking duties recognised by the Secretary as requiring possession of mandatory qualifications, specialist skills and/or professional registration will have specific titles recognised under the Public Service Classification Rules 2000, or local titles. In regard to Medical Officer this means a person registered or licensed as a Health/Medical Practitioner under Australian law.

Minister means the Commonwealth Minister for Health and Aged Care or another Commonwealth Minister who otherwise has responsibility for the administration of the Scheme.

Minor means a person who has not attained 18 years of age.

Non-Dependant Child means a person who was not a Dependant and who was a child of the Deceased COVID-19 Vaccine Recipient at the time the Deceased COVID-19 Vaccine Recipient died, whether biological, derived through adoption or otherwise (including a stepchild).

Out of Pocket Expenses means amounts paid by or on behalf of the COVID-19 Vaccine Recipient:

- (a) for treatment most likely required as a result of the Harm (including consultations with treatment providers, medication, medical aids, medical appliances, and reasonable travel and accommodation expenses incurred in connection with receiving treatment);
- (b) in connection with obtaining medical report(s) required by clause 16; and
- (c) in connection with the matters set out in clause 24(6),

which have not been or are not entitled to be paid or reimbursed by a Third Party Payer.

Paid Attendant Care Services means Attendant Care Services that:

- (a) have been or are to be provided to the COVID-19 Vaccine Recipient; and
- (b) for which the COVID-19 Vaccine Recipient (or someone else on their behalf) has paid or is liable to pay.

Pain and Suffering means:

- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life; and
- (d) disfigurement,

of the COVID-19 Vaccine Recipient most likely caused by the Harm, and for which items or amounts are not entitled to be paid, reimbursed or compensated by a Third Party Payer.

Parent means a person who was a parent of the COVID-19 Vaccine Recipient (whether biological, as a result of adoption or otherwise (including a step-parent)) or legal guardian of the COVID-19 Vaccine Recipient at the time the Harm was suffered.

Past Loss means for Tier 1 and Tier 2 claims, the value of the COVID-19 Vaccine Recipient's past:

- (a) Out of Pocket Expenses;
- (b) Care Services; and
- (c) Lost Earnings.

For the avoidance of doubt, Past Loss does not include items which have been or are entitled to be paid or reimbursed by a Third Party Payer.

Policy means this document as varied from time to time in accordance with clause 1(3).

Product Information means the product information approved by the Secretary under section 25AA of the *Therapeutic Goods Act 1989* (Cth) in relation to each COVID-19 Vaccine.

Reporting Practitioner means a medical practitioner (including a Treating Practitioner, Treating Specialist or Consultant Physician) who is:

- (a) registered under the relevant State or Territory legislation that forms part of the Health Practitioner Regulation National Law, including with AHPRA; and
- (b) is qualified (by reference to their professional qualifications and expertise in general practice, a relevant speciality or a field of speciality practice) to prepare a report on the COVID-19 Vaccine Recipient's condition as a result of the Harm (including in relation to the treatment required).

Scheme means the *COVID-19 Vaccine Claims Scheme* being the program specified in the *Financial Framework (Supplementary Powers) Regulations 1997*, Schedule 1AB, Part 4, Item 506.

Seafarer means a person who:

- (a) regularly travels by sea; or
- (b) is a sailor; and

is not an Australian citizen or Permanent Resident.

Secretary means the Secretary of the Department.

Sibling means a person who is a sibling of the COVID-19 Vaccine Recipient at the time the Harm was suffered (whether biological, as a result of adoption or otherwise (including a step-sibling or half-sibling)).

Subsequently Recognised Harm is defined in clause 4(1)(b).

Third Party Payer means:

- (a) any agency, entity or person, including but not limited to:
 - (i) employers;
 - (ii) insurers (including private health, funeral and workers' compensation insurers);
 - (iii) the Commonwealth (other than under the Scheme) (including Services Australia, Medicare and Centrelink); and
 - (iv) States and Territories,

but not including a family member or friend, and

- (b) that, prior to the Decision Maker determining the Claim and pursuant to statute, contract or agreement:
 - (i) has paid or reimbursed; or
 - (ii) is under a presently quantifiable and enforceable obligation to pay or reimburse,

compensation, damages or any other monetary amount (including income support or other financial support) to or for the benefit of the Eligible Claimant or COVID-19 Vaccine Recipient in connection with the Harm.

Note: Where an Eligible Claimant or COVID-19 Vaccine Recipient has recovered compensation, damages or other monetary amount from a third party in connection with the Harm suffered prior to their Claim being determined by the Decision Maker, Third Party Payer also includes the payer of that compensation.

Note: Where an insurance or legal claim may be available against a third party, and such a claim has either not been made prior to the determination of a Claim or it has been made but the monetary outcome is not known prior to the determination of the Claim (i.e. it is not "presently quantifiable"), that third party is not a Third Party Payer. Clause 35 separately prescribes the requirements of the settlement deed in relation to any amounts recovered subsequent to the determination of a Claim.

Tier 1 or Tier 2 Authorised Representative means, in respect of Tier 1 and Tier 2 claims, a lawyer or other authorised representative (excluding a Tier 1 or Tier 2 Legal Representative) of a COVID-19 Vaccine Recipient, provided that the person provides satisfactory evidence that the lawyer or other authorised representative is authorised to act on their behalf.

Tier 1 or Tier 2 Legal Representative means, in respect of Tier 1 and Tier 2 claims:

- (a) if the COVID-19 Vaccine Recipient dies from a cause unrelated to the Harm prior to or after making a Claim, the executor or an administrator of the COVID-19 Vaccine Recipient's estate;
- (b) the trustee of the estate of the COVID-19 Vaccine Recipient under a legal disability;

- (c) a person who holds an enduring power of attorney granted by the COVID-19 Vaccine Recipient;
- (d) a person who, by order of a court or otherwise, has the legal administration or control of the affairs of the COVID-19 Vaccine Recipient; and
- (e) if the COVID-19 Vaccine Recipient is a Minor or is mentally incapacitated, a parent or legal guardian of that person (or similar),

but does not include a Tier 1 or Tier 2 Authorised Representative.

Tier 3 Authorised Representative means a lawyer retained by a Tier 3 Estate Representative, provided the lawyer provides satisfactory evidence that they are authorised to act on behalf of the Tier 3 Estate Representative.

Tier 1 claim means a claim under the Scheme for Compensation:

- (a) in relation to Harm (not resulting in death of the COVID-19 Vaccine Recipient); and
- (b) in relation to which a Loss Less Pain and Suffering Amount of between:
 - (c) \$1,000.00 and \$15,999.99 is claimed if Pain and Suffering is claimed; or
 - (d) \$1,000.00 and \$19,999.99 is claimed if Pain and Suffering is not claimed.

Tier 2 claim means a claim under the Scheme for Compensation:

- (a) in relation to Harm (not resulting in death of the COVID-19 Vaccine Recipient); and
- (b) in relation to which a Loss Less Pain and Suffering Amount of:
 - (i) \$16,000.00 or more is claimed if Pain and Suffering is claimed; or
 - (ii) \$20,000.00 or more is claimed if Pain and Suffering is not claimed.

Tier 3 claim means a claim under the Scheme for Compensation in relation Harm that caused, or materially contributed to, the death of a COVID-19 Vaccine Recipient.

Tier 3 Dependant Lump Sum Payment means:

- (a) the amount of \$644,640;
- (b) plus, if the Deceased COVID-19 Vaccine Recipient had more than one Dependant at the time of their death:
 - (i) for each child that was a Dependant who was, at the date the Deceased COVID-19 Vaccine Recipient died:
 - (A) under the age of 16; or
 - (B) over 16 but under the age of 21 and a full-time student,

the additional sum specified in Column 2 of Table 2 corresponding to the age of each child as set out in Column 1 of Table 2;

- (ii) but, where the Deceased COVID-19 Vaccine Recipient's only Dependants are children of the Deceased COVID-19 Vaccine Recipient, it will not include an additional sum as set out in Table 2 for the eldest child that was a Dependant,

less any items or amounts which have been or are entitled to be paid or reimbursed by a Third Party Payer, but for this purpose, any amount received from a life insurer of the Deceased COVID-19 Vaccine Recipient is not to be taken into account.

Table 2

Column 1	Column 2
Years of age	Amounts of Compensation
Under 1	\$61,288
Under 2	\$57,319
Under 3	\$53,368
Under 4	\$49,422
Under 5	\$45,464
Under 6	\$41,509
Under 7	\$37,555
Under 8	\$33,601
Under 9	\$29,655
Under 10	\$25,693
Under 11	\$21,741
Under 12	\$17,782
Not under 12 but under 16	\$13,831
Not under 16 but under 21 (full-time students)	\$13,831

NOTE: For example:

If a Deceased COVID-19 Vaccine Recipient had two Dependants at the time of their death (a child aged 7 and a child aged 11), and the Deceased COVID-19 Vaccine Recipient was not legally married to any person or the de facto partner of any person, the Tier 3 Dependant Lump Sum Payment would be \$678,241, calculated as \$644,640 plus \$33,601 for a child aged under 8 (noting that in this scenario the eldest child is excluded for the purpose of this calculation).

If a Deceased COVID-19 Vaccine Recipient had three Dependants at the time of their death (a wife, a child aged 7 and a child aged 11), the Tier 3 Dependant Lump Sum Payment would be \$696,023, calculated as \$644,640 plus \$33,601 for a child aged under 8 plus \$17,782 for a child aged under 12.

Tier 3 Estate Representative means an executor or an administrator of the Deceased COVID-19 Vaccine Recipient's estate.

Tier 3 Family Representative means:

- (a) a close relative of the Deceased COVID-19 Vaccine Recipient, which would ordinarily be expected to extend to:
 - (i) a person to whom the COVID-19 Vaccine Recipient was legally married, at the time the Deceased COVID-19 Vaccine Recipient died;
 - (ii) a person who was in a de facto relationship (as that term is defined in section 4AA of the *Family Law Act 1975* (Cth)) with the COVID-19 Vaccine Recipient, at the time the Deceased COVID-19 Vaccine Recipient died;
 - (iii) a Parent;
 - (iv) a Sibling; and
 - (v) a child, grandchild, uncle, aunt, niece, nephew or grandparent of the COVID-19 Vaccine Recipient (in each case, whether biological, derived through adoption or otherwise); and
- (b) who has notified the Tier 3 Estate Representative that they intend to make a Claim in respect of the Deceased COVID-19 Vaccine Recipient and provides satisfactory evidence that such notification has been made.

Tier 3 Non-Dependant Lump Sum Payment means the amount of \$70,680.00, less any items or amounts which have been or are entitled to be paid or reimbursed by a Third Party Payer, but for this purpose, any amount received from a life insurer of the Deceased COVID-19 Vaccine Recipient is not to be taken into account.

Tier 3 Subsequent Recovery Amount is defined in clause 35(1)(c)(i).

Tiers 1 and 2 Subsequent Recovery Amount is defined in clause 35(1)(b).

Treating Practitioner means a medical practitioner (including a Treating Specialist or Consultant Physician) who:

- (a) is registered under the relevant State or Territory legislation that forms part of the Health Practitioner Regulation National Law, including with AHPRA;
- (b) has treated or examined the COVID-19 Vaccine Recipient in relation to the Harm; and
- (c) is qualified (by reference to their professional qualifications and expertise in general practice, a relevant speciality or a field of speciality practice) to:
 - (i) provide the treatment given to, or undertake the examination of, the COVID-19 Vaccine Recipient;
 - (ii) express the opinions contained in any report provided by the Treating Practitioner; and
 - (iii) express an opinion on whether the treatment given by the Treating Practitioner was reasonably required as a result of the Harm.

Treating Specialist or Consultant Physician means a medical practitioner who:

- (a) is registered under the relevant State or Territory legislation that forms part of the Health Practitioner Regulation National Law, including with AHPRA; and
- (b) is qualified (by reference to their professional qualifications and expertise) in a speciality or a field of speciality practice relevant to the Harm suffered.

Unrelated Harm is defined in clause 4(1)(b).

3 Application of Scheme

- (1) The Scheme applies and Claims can be made:
 - (a) in relation to all individuals (excluding a Seafarer) who received a COVID-19 Vaccine on or after 22 February 2021 through a Commonwealth Government Approved Program; and
 - (b) up to and including the End Date, provided the Claim is received by Services Australia before the End Date (subject to clause 5(4)).
- (2) Claims received by Services Australia on or before the End Date will be determined in accordance with this Policy (subject to clause 5(4)).

4 Claims that can be made – Tier 1 and Tier 2 claims

- (1) Only one Claim can be made in relation to each COVID-19 Vaccine Recipient (other than a Deceased COVID-19 Vaccine Recipient) unless:
 - (a) the Harm suffered by that COVID-19 Vaccine Recipient:
 - (i) significantly worsens; and
 - (ii) requires additional treatment for a period of at least 6 months after the latest date for which Compensation was originally paid under the Scheme in respect of Out of Pocket Expenses and/or Lost Earnings, **(Further Related Harm)**; or

NOTE: For example, if Compensation is paid for future Out of Pocket Expenses for the COVID-19 Vaccine Recipient's medical treatment for a period of 6 months, the COVID-19 Vaccine Recipient must require that treatment for at least a further 6 months (at least 12 months in total).

- (b) that COVID-19 Vaccine Recipient suffers Harm that:
 - (i) is different and unrelated to the Harm for which Compensation was previously paid in relation to that COVID-19 Vaccine Recipient (**Unrelated Harm**); and/or
 - (ii) was not within the definition of Harm as at the date on which a previous Claim was received by Services Australia, (**Subsequently Recognised Harm**),

provided that:

- (c) the Claimant (or COVID-19 Vaccine Recipient on whose behalf a Claim has been made) has not previously received Compensation

under the Scheme for the Further Related Harm, the Unrelated Harm or the Subsequently Recognised Harm;

- (d) in relation to Further Related Harm and Unrelated Harm only, the Further Related Harm or the Unrelated Harm was not known or foreseeable when the previous Claim was determined;
- (e) in relation to Subsequently Recognised Harm only, the Subsequently Recognised Harm claimed was not within the definition of Harm as at the date on which a previous Claim was received by Services Australia (whether or not the Harm now claimed was previously claimed).

5 Claims that can be made – Tier 3 claims

- (1) Only one Claim may be made in respect of the death of a Deceased COVID-19 Vaccine Recipient. However, if a Claim is made by a Tier 3 Family Representative, and a Tier 3 Estate Representative or a Tier 3 Authorised Representative later makes a Claim in respect of the same Deceased COVID-19 Vaccine Recipient prior to the determination of the Claim made by the Tier 3 Family Representative, those Claims will be consolidated and thereafter only the Tier 3 Estate Representative or Tier 3 Authorised Representative will be the Claimant in relation to the consolidated Claim.
- (2) If a Tier 1 or Tier 2 claim is made by or on behalf of a COVID-19 Vaccine Recipient and received by Services Australia on or before the End Date and prior to Compensation for the Claim being paid:
 - (a) the COVID-19 Vaccine Recipient dies; and
 - (b) the Harm suffered by the COVID-19 Vaccine Recipient caused, or materially contributed to, their death,then, at the time of the COVID-19 Vaccine Recipient's death, the Tier 1 or Tier 2 claim will automatically be suspended.
- (3) A suspended Tier 1 or Tier 2 claim in accordance with clause 5(2) will remain suspended until and unless a Tier 3 claim is made in relation to the COVID-19 Vaccine Recipient by an Eligible Claimant in accordance with this Policy, following which it will be assessed and determined as a Tier 3 claim in accordance with this Policy. If the outcome of that determination is that the Claim is not an eligible Tier 3 claim, then the Tier 1 or Tier 2 claim may thereafter be continued.
- (4) For the avoidance of doubt, any Tier 3 claim made in accordance with clause 5(3) can be made after the End Date.
- (5) Subject to item 6(4) of Schedule 1, if, after Compensation is paid in respect of a Tier 1 or Tier 2 claim:
 - (a) after the COVID-19 Vaccine Recipient dies; and
 - (b) the Harm suffered by the COVID-19 Vaccine Recipient caused, or materially contributed to, their death,

then a Tier 3 claim may be made in relation to the death of that COVID-19 Vaccine Recipient which will be assessed and determined in accordance with this Policy, provided that the separate Tier 3 claim is received by Services Australia before the End Date.

6 Waiver of the Hospitalisation Requirement for Tier 1 and Tier 2 claims

- (1) Where a COVID-19 Vaccine Recipient has suffered COVID-19 Vaccine Related Harm, the Decision Maker may waive the Hospitalisation Requirement if the Decision Maker is reasonably satisfied that:
 - (a) the COVID-19 Vaccine Recipient was not admitted to Hospital, but otherwise would have been, for treatment most likely related to the COVID-19 Vaccine Related Harm suffered either because:
 - (i) of the nature of the COVID-19 Vaccine Related Harm suffered; or
 - (ii) the COVID-19 Vaccine Recipient was in a rural or remote area at the time the COVID-19 Vaccine Related Harm was suffered, making it difficult for them to access a Hospital; and
 - (b) the COVID-19 Vaccine Recipient received treatment most likely related to the COVID-19 Vaccine Related Harm in an outpatient care setting under the supervision of a Treating Specialist or Consultant Physician; and
 - (c) the Claimant provides sufficient evidence that the COVID-19 Vaccine Recipient meets the criteria in (a) and (b) above which may include the information set out in clause 17(3).
- (2) The Decision Maker may not waive the Hospitalisation Requirement if COVID-19 Vaccine Recipient has only suffered COVID-19 Vaccine Administration Related Harm.
- (3) For the avoidance of doubt, the Hospitalisation Requirement does not apply to Tier 3 claims.

Part 2 Submitting a Claim

7 Submission of Claim

- (1) A person may submit a Claim for Compensation through:
 - (a) the online process administered by Services Australia accessed via servicesaustralia.gov.au; or
 - (b) any other method or process by which Services Australia decides to accept the lodgement of Claims.
- (2) A Claim must:
 - (a) be submitted in the form of the Approved Claim Form; and
 - (b) include the applicable supporting documents and information specified in Part 4 of this Policy.

- (3) If a Claimant does not submit the applicable specified supporting documents and information as part of their Claim, the outstanding documents and information may be requested in accordance with clause 24.
- (4) A Claim must be received by Services Australia on or before the End Date subject to clause 5(4).

NOTE: Compensation may be payable after the End Date of the Scheme, provided that a Claim for such Compensation was received by Services Australia on or before the End Date (subject to clause 5(4)).

8 Determination of Claims

- (1) In respect of each Claim, the Decision Maker must determine each matter relevant to the Claim to their reasonable satisfaction and decide whether Compensation will be offered in accordance with clause 9.
- (2) For the purpose of clause 8(1), the Decision Maker may only be reasonably satisfied of a matter relevant to a Claim if the information and evidence provided or obtained in accordance with this Policy supports a finding in relation to that matter on the balance of probabilities (that is, the relevant matter or thing is demonstrated to be more likely than not).
- (3) At any time prior to making the decision referred to in clause 8(1), the Decision Maker may:
 - (a) request that further information or evidence be provided in accordance with clause 24 (in which case, the Decision Maker may request that the Assessor undertake further assessment of the Claim having regard to the further information or evidence received, prior to the Decision Maker making a decision); and
 - (b) seek any other opinion, view or recommendation from the Assessor or a Medical Officer, that the Decision Maker considers necessary or appropriate in order to make a decision in relation to the Claim.

Part 3 Compensation

9 When Compensation is payable

- (1) Subject to the provisions of this Policy, Compensation is payable to a Claimant if:
 - (a) the Claimant makes a Claim in accordance with this Policy;
 - (b) the Decision Maker is reasonably satisfied that the COVID-19 Vaccine Recipient suffered Harm;
 - (c) the Decision Maker is reasonably satisfied that:
 - (i) the Claimant is an Eligible Claimant (in that the Claimant satisfies (a) in the definition of Eligible Claimant if the Claim is a Tier 1 claim, (b) if the Claim is a Tier 2 claim, or (c) if the Claim is a Tier 3 claim); and
 - (ii) in relation to Tier 1 and Tier 2 claims, if the Claimant does not satisfy the Hospitalisation Requirement, the

Hospitalisation Requirement should be waived in accordance with clause 6;

- (iii) in respect of Tier 3 claims, the Harm suffered caused, or materially contributed to the Deceased COVID-19 Vaccine Recipient's death;
 - (iv) a Claim has not previously been made in respect of the COVID-19 Vaccine Recipient, unless otherwise permitted in accordance with clauses 4 or 5; and
- (d) the Decision Maker is reasonably satisfied that, in relation to each applicable component of the Claim made, the following requirements are met:

Tier of Claim	Component claimed	Criteria required to be met
Tier 1 and 2	Out of Pocket Expenses	clause 18(1) for past Out of Pocket Expenses clause 18(3) for future Out of Pocket Expenses
	Lost Earnings	clause 19(1) for past Lost Earnings clause 19(3) for future Lost Earnings
	Pain and Suffering	clause 20(1)
	Gratuitous Attendant Care Services	clause 21(1)
	Paid Attendant Care Services	clause 21(3)
	Loss of Capacity to Provide Domestic Services	clause 21(5)
Tier 3	Funeral Expenses	clause 22(1)
	Tier 3 Dependant Lump Sum Payment	clause 22(2)
	Tier 3 Non-Dependant Lump Sum Payment	clause 22(3)

- (2) The amount of Compensation payable in respect of a Claim is to be assessed and determined in accordance with this Policy, including Schedule 1.

10 Compensation available for Tier 1 and Tier 2 claims

- (1) In respect of a Tier 1 or Tier 2 claim, Compensation may only be claimed and paid for:
 - (a) Past Loss;
 - (b) Future Loss; and
 - (c) Pain and Suffering.

11 Compensation available for Tier 3 claims

- (1) In respect of a Tier 3 claim, only one (but not both) of the following may be claimed and paid:
 - (a) where the Deceased COVID-19 Vaccine Recipient had one or more surviving Dependants, the Tier 3 Dependant Lump Sum Payment; or
 - (b) where the Deceased COVID-19 Vaccine Recipient has no surviving Dependants at the time of death but has at least one surviving Parent, Non-Dependant Child or Sibling at the time of death, the Tier 3 Non-Dependent Lump Sum (and subject to the order of eligibility of the intended beneficiaries in accordance with Table 3 in clause 36).
- (2) Further, in respect of a Tier 3 claim, Funeral Expenses may be claimed and paid.

12 Assessment and determination of Compensation

- (1) An Assessor is to undertake an assessment of each Claim allocated to them and recommend to the Decision Maker any Compensation to be paid in accordance with this Policy, including Schedule 1 to this Policy.
- (2) The Decision Maker is to determine, after taking into account all available information including the Assessor's recommendation (if any), whether Compensation is payable in relation to each Claim (and if so, the amount to be paid) in accordance with this Policy, including Schedule 1 to this Policy.

13 Costs not recoverable under the Scheme

- (1) Amounts other than Compensation may not be recovered or paid under the Scheme, for example, any of the following amounts:
 - (a) any legal costs or expenses in connection with a Claim and/or receipt of Compensation;
 - (b) any costs associated with obtaining tax, financial or other professional advice in connection with the Claim and/or receipt of Compensation;
 - (c) any other costs in connection with the Claim and/or receipt of Compensation that are not Out of Pocket Expenses; or
 - (d) interest on any Compensation.

Part 4 Claims – Supporting documentation and other information

14 Supporting documentation and other information to be provided

- (1) The following information is to be provided by the Claimant to Services Australia:
 - (a) the name and contact details of the Claimant and, if they are not the COVID-19 Vaccine Recipient, the basis upon which they say they are eligible to make a Claim on behalf of the COVID-19 Vaccine Recipient;
 - (b) if the Claimant is a Tier 1 or Tier 2 Authorised Representative, a Tier 1 or Tier 2 Legal Representative, a Tier Estate 3 Representative, a Tier 3 Authorised Representative or a Tier 3 Family Representative, satisfactory evidence to confirm that the Claimant is a Tier 1 or Tier 2 Authorised Representative, a Tier 1 or Tier 2 Legal Representative, Tier 3 Estate Representative, Tier 3 Authorised Representative or Tier 3 Family Representative (as applicable); and
 - (c) in relation to the COVID-19 Vaccine Recipient:
 - (i) personal details;
 - (ii) in respect of Tier 1 and Tier 2 claims only, contact details;
 - (iii) Medicare number (if any);
 - (iv) any other information or documentation required by the Approved Claim Form; and
 - (v) any other information or documentation requested in accordance with clause 24.
- (2) In addition to clause 14(1), when a Tier 1 or Tier 2 claim includes:
 - (a) Out of Pocket Expenses, the Claimant must provide information and evidence sufficient to support the total amount of past and/or expected future Out of Pocket Expenses claimed in accordance with clauses 16 and 18;
 - (b) Lost Earnings, the Claimant must provide information and evidence sufficient to support the total amount of past and/or expected future Lost Earnings claimed in accordance with clauses 16 and 19;
 - (c) Pain and Suffering, the Claimant must provide satisfactory information and evidence of the Pain and Suffering in accordance with clauses 16 and 20; and
 - (d) Care Services, the Claimant must provide satisfactory information and evidence in accordance with clauses 16 and 21.
- (3) In addition to clause 14(1), when a Tier 3 claim is made, the Claimant must also provide satisfactory supporting information and evidence in accordance with clause 22.
- (4) Each Claim must be accompanied by a written medical report from a Reporting Practitioner in accordance with clause 16.

- (5) Claimants may also provide any other supporting written evidence the Claimant considers to be relevant to their Claim.

15 Collection, use and disclosure of information

- (1) For the purposes of managing, verifying, assessing and/or determining a Claim or a Claimant's compliance with their obligations under a settlement deed as set out in clause 35 or in connection with any other matter relevant to any Commonwealth program or payments (including the review of decisions under the Scheme and any subsequent administrative action or payments), the Department, Services Australia and the Independent Expert Panel may collect, hold, use and disclose personal information relevant to the Claim, including but not limited to information:
- (a) held by the Commonwealth in relation to the:
 - (i) COVID-19 Vaccine received;
 - (ii) Harm suffered;
 - (iii) treatment received in respect of the Harm;
 - (iv) amounts claimed under the Scheme;
 - (v) amounts paid or payable by any Third Party Payers;
 - (vi) amounts recovered or recoverable in relation to:
 - (A) the Harm suffered; or
 - (B) the death of a Deceased COVID-19 Vaccine Recipient,after a settlement deed is executed in accordance with clause 35; and
 - (vii) Income,
including for example, information in the Australian Immunisation Register, Medicare records, Australian Taxation Office records, or therapeutic goods information held by the Secretary;
 - (b) held by a Treating Practitioner, Reporting Practitioner or a Hospital which treated the COVID-19 Vaccine Recipient;
 - (c) held by any other person in relation to the matters referred to in clauses 15(1)(a) or 15(1)(b); and
 - (d) held by insurers, such as workers' compensation, medical indemnity insurers or private health insurers.
- (2) In order to make a Claim, Claimants will need to provide necessary consents in relation the collection, holding, use and disclosure of data in accordance with clause 15(1).

16 Supporting Evidence – Medical Report (all Claims)

- (1) The medical report from a Reporting Practitioner provided in accordance with clause 14(4) must:

- (a) satisfy the requirements in clause 16(3);
 - (b) where a Claim is made for a particular category of Compensation, satisfy the requirements in respect of that category of Compensation as set out in this clause 16;
 - (c) state, if the Reporting Practitioner has previously treated the COVID-19 Vaccine Recipient generally, when the Reporting Practitioner first treated the COVID-19 Vaccine Recipient and provide details of the treatment provided; and
 - (d) contain any other matters that the Reporting Practitioner considers to be relevant in relation to the Claim.
- (2) The medical report may include relevant medical reports or opinions from other Treating Practitioners in relation to the COVID-19 Vaccine Recipient.
- (3) The medical report:
- (a) must include the name, provider number and contact details of the Reporting Practitioner;
 - (b) must include the speciality or field of the Reporting Practitioner;
 - (c) in relation to the Harm suffered:
 - (i) must include the Reporting Practitioner's diagnosis (or a summary of a Treating Practitioner's diagnosis) of the specific Harm suffered, including:
 - (A) an explanation as to how that diagnosis was made, including any relevant diagnostic criteria, case definitions and tests / investigations undertaken;
 - (B) if known, the date on which symptoms of the specific Harm were first experienced;
 - (C) if known, the date on which the diagnosis was first made;
 - (D) details of the Treating Practitioner (if any) who first made the diagnosis (if different from the Reporting Practitioner), such as name, contact details, provider number and speciality or field; and
 - (E) the Reporting Practitioner's opinion as to the circumstances, nature and severity of the Harm;
 - (ii) should provide an overview of the nature of the treatment received in relation to the Harm;
 - (iii) must include the Reporting Practitioner's opinion as to the extent to which the Harm was most likely caused by the COVID-19 Vaccine (or its administration) and less likely caused by any of the COVID-19 Vaccine Recipient's other circumstances; and
 - (iv) must include the information required in accordance with clause 17;

- (d) where a Tier 1 or Tier 2 claim is made for past Out of Pocket Expenses for treatment:
 - (i) must include evidence as to the nature of the treatment received by the COVID-19 Vaccine Recipient for which a Claim for past Out of Pocket expenses is made and, if available, the names, contact details, provider numbers and specialities or field of specialities (if any) of the practitioners that provided such treatment; and
 - (ii) must include the Reporting Practitioner's opinion as to whether, why and the extent to which the treatment referred to in clause 16(3)(d)(i) was reasonably required as a result of the Harm suffered;
- (e) must include, where a Tier 1 or Tier 2 claim is made for future Out of Pocket Expenses for treatment:
 - (i) evidence as to the nature and estimated duration (e.g. quotes) of any future treatment that is reasonably required by the COVID-19 Vaccine Recipient as a result of the Harm; and
 - (ii) the Reporting Practitioner's opinion as to the extent to which the treatment referred to in clause 16(3)(e)(i) is reasonably required as a result of the Harm suffered;
- (f) must include, where a Tier 1 claim is made for Pain and Suffering, the Reporting Practitioner's opinion as to whether the COVID-19 Vaccine Recipient suffered and/or suffers Pain and Suffering;
- (g) must include, where a Tier 2 claim includes a Claim for Pain and Suffering, the Reporting Practitioner's opinion as to:
 - (i) whether Pain and Suffering was suffered or is being suffered;
 - (ii) the nature of the Pain and Suffering;
 - (iii) the nature of the impairment to the COVID-19 Vaccine Recipient's ability to lead a normal life including the impact on their pre-existing earning capacity;
 - (iv) the likely duration of the Harm, Pain and Suffering and impairment; and
 - (v) the severity of the Pain and Suffering, including as a percentage of the most extreme case;
- (h) must include, where a Tier 1 or Tier 2 claim is made for Lost Earnings, the Reporting Practitioner's opinion as to:
 - (i) the past and future impacts and/or restrictions of the Harm on the COVID-19 Vaccine Recipient's ability to work (including whether they will be unable to work or only able to work on a reduced basis);
 - (ii) the likely duration of those impacts and/or restrictions; and

- (iii) the extent to which those impacts and/or restrictions are most likely a result of the Harm and less likely as a result of the COVID-19 Vaccine Recipient's other circumstances;
- (i) must include, where a Tier 1 or Tier 2 claim is made for Gratuitous Attendant Care Services, the Reporting Practitioner's opinion as to:
 - (i) whether Gratuitous Attendant Care Services were provided or are required;
 - (ii) the nature and duration of the Gratuitous Attendant Care Services provided and/or required;
 - (iii) the extent to which the Gratuitous Attendant Care Services were and/or are reasonably required as a result of the Harm;
- (j) must include, where a Tier 1 or Tier 2 claim includes an amount in respect of Paid Attendant Care Services, the Reporting Practitioner's opinion as to:
 - (i) whether Paid Attendant Care Services were provided or are required;
 - (ii) the nature and duration of the Paid Attendant Care Services provided and/or required; and
 - (iii) the extent to which the Paid Attendant Care Services were and/or are reasonably required as a result of the Harm;
- (k) must include, where a Tier 1 or Tier 2 claim includes an amount in respect of Loss of Capacity to Provide Domestic Services, the Reporting Practitioner's opinion as to:
 - (i) whether the COVID-19 Vaccine Recipient is unable to or has a reduced capacity to provide the Gratuitous Domestic Services they provided prior to suffering the Harm;
 - (ii) the extent to which the COVID-19 Vaccine Recipient's capacity to provide the Gratuitous Domestic Services they provided prior to suffering the Harm has been reduced; and
 - (iii) the likely duration of the COVID-19 Vaccine Recipient's reduced capacity to provide the Gratuitous Domestic Services they provided prior to suffering the Harm;
- (l) must include, for Tier 1 or Tier 2 claims, the Reporting Practitioner's opinion as to the prognosis for the COVID-19 Vaccine Recipient as a result of the Harm suffered; and
- (m) must include, for Tier 3 claims, the Reporting Practitioner's opinion as to whether the Harm suffered by the COVID-19 Vaccine Recipient caused, or materially contributed to, their death (having regard to the cause(s) of death specified in the death certificate or medical cause of death certificate).

17 Supporting Evidence – Hospitalisation Requirement (Tier 1 and Tier 2 claims)

- (1) This clause only applies to Tier 1 and 2 claims.

- (2) If the COVID-19 Vaccine Recipient meets the Hospitalisation Requirement, the Claimant must provide:
 - (a) satisfactory documentation from the Hospital, Reporting Practitioner or Treating Practitioner verifying the admission of the COVID-19 Vaccine Recipient to Hospital as an inpatient where treatment for the Harm was sought and received; and
 - (b) if not already covered in that documentation, confirmation:
 - (i) of the Hospital(s) where treatment for the Harm was sought and received; and
 - (ii) of the date(s) of any admission to Hospital as a result of the Harm and the date(s) of discharge.

- (3) If the COVID-19 Vaccine Recipient does not meet the Hospitalisation Requirement, the Claimant must provide:
 - (a) satisfactory evidence from a Reporting Practitioner as to why the COVID-19 Vaccine Recipient was not admitted to Hospital, when they otherwise would have been;
 - (b) either satisfactory evidence:
 - (i) from a Reporting Practitioner as to whether the COVID-19 Vaccine Recipient was not admitted to Hospital because of the nature of the COVID-19 Vaccine Related Harm suffered; or
 - (ii) demonstrating that the COVID-19 Vaccine Recipient was in a rural or remote area at the time the COVID-19 Vaccine Related Harm was suffered, making it difficult for them to access a Hospital; and
 - (c) satisfactory evidence from a Reporting Practitioner as to:
 - (i) the nature and duration of the outpatient care provided by a Treating Specialist or Consultant Physician to the COVID-19 Vaccine Recipient in relation to the COVID-19 Vaccine Related Harm; and
 - (ii) the name, contact details of the Treating Specialist or Consultant Physician that provided the outpatient care to the COVID-19 Vaccine Recipient in relation to the COVID-19 Vaccine Related Harm (if available and different from the Reporting Practitioner).

18 Supporting evidence and eligibility – Out of Pocket Expenses (Tier 1 and Tier 2 claims)

- (1) The Eligible Claimant in a Tier 1 and Tier 2 claim will be eligible for Compensation for past Out of Pocket Expenses if:
 - (a) Out of Pocket Expenses were incurred; and
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that such Out of Pocket Expenses were incurred.

- (2) Claims for Compensation for past Out of Pocket Expenses must be accompanied by:
 - (a) satisfactory evidence of the Out of Pocket Expenses incurred (e.g. receipts and/or records of treatment);
 - (b) satisfactory evidence that each of the past Out of Pocket Expenses claimed were most likely incurred as a result of the Harm, including from the Reporting Practitioner (as set out in clause 16(3)(d)); and
 - (c) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for past Out of Pocket Expenses in respect of which a Claim is made (e.g. evidence of compensation for past Out of Pocket Expenses previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (3) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for future Out of Pocket Expenses if:
 - (a) the COVID-19 Vaccine Recipient is most likely to incur Out of Pocket Expenses in the future; and
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that such Out of Pocket Expenses are most likely to be incurred in the future.
- (4) Claims for Compensation for future Out of Pocket Expenses must be accompanied by:
 - (a) satisfactory evidence of the likely cost of the Out of Pocket Expenses (e.g. quotes);
 - (b) satisfactory evidence that each of the future Out of Pocket Expenses claimed are most likely required as a result of the Harm, including from the Reporting Practitioner as referred to in clause 16(3)(e);
 - (c) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for future Out of Pocket Expenses in respect of which a Claim is made (e.g. evidence of compensation for future Out of Pocket Expenses previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (5) Claimants may also submit any other information that the Claimant considers relevant to the Claim for past and/or future Out of Pocket Expenses.

19 Supporting evidence and eligibility – Lost Earnings (Tier 1 and Tier 2 claims)

- (1) The Eligible Claimant in a Tier 1 and Tier 2 claim will be eligible for Compensation for past Lost Earnings if:
 - (a) the COVID-19 Vaccine Recipient has suffered past Lost Earnings; and
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that the COVID-19 Vaccine Recipient suffered past Lost Earnings.
- (2) Claims for Compensation for past Lost Earnings must be accompanied by satisfactory evidence demonstrating that the COVID-19 Vaccine Recipient suffered past Lost Earnings and substantiating the amount of past Lost Earnings suffered. It is expected that such evidence would include:
 - (a) the COVID-19 Vaccine Recipient’s employment or occupation at the time the Harm was suffered;
 - (b) the source(s) of the COVID-19 Vaccine Recipient’s Income that is impacted by the Harm;
 - (c) evidence of the COVID-19 Vaccine Recipient’s Income (for example, payslips):
 - (i) for a period prior to the Harm being suffered sufficient to demonstrate the Income prior to the Harm being suffered; and
 - (ii) in the period between the Harm being suffered and the Claim being made;
 - (d) the amount of time that the COVID-19 Vaccine Recipient has not worked due to the Harm and details of the amount of time taken as paid and/or unpaid leave;

Note: This can include leave taken because of the Harm itself or to attend medical appointments.

Note: It is preferable for this information to be provided through a record from the employer (e.g. a payslip that shows sick leave taken during that period or a letter from the employer). Alternatively, the Claimant may submit a declaration from the COVID-19 Vaccine Recipient’s employer.

- (e) any benefits received relevant to the COVID-19 Vaccine Recipient’s earnings (for example, a COVID-19 Disaster Payment):
 - (i) for a period prior to the Harm being suffered sufficient to demonstrate the benefits received prior to the Harm being suffered; and
 - (ii) in the period between the Harm being suffered and the Claim being made;
- (f) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for past Lost Earnings in respect of which a Claim is made (e.g. evidence of compensation for past Lost Earnings previously received from a Third Party Payer) or, otherwise, a statement from

the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed; and

- (g) evidence from the Reporting Practitioner (as set out in clause 16(3)(h)).
- (3) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for future Lost Earnings if:
- (a) the COVID-19 Vaccine Recipient is most likely to suffer Lost Earnings in the future; and
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that the COVID-19 Vaccine Recipient is most likely to suffer such Lost Earnings in the future.
- (4) Claims for Compensation for future Lost Earnings must be accompanied by satisfactory evidence demonstrating that the COVID-19 Vaccine Recipient is most likely to suffer Lost Earnings in the future and substantiating the amount of future Lost Earnings likely to be suffered. It is expected that such evidence would include:
- (a) evidence of the COVID-19 Vaccine Recipient's planned retirement age (if within the period affected by the Harm) if at an age other than 65. If no such evidence is provided, it will be assumed that the COVID-19 Vaccine Recipient's planned retirement age will be 65;
 - (b) evidence of any anticipated promotions or increases in wages that are or were likely to occur during the period affected by the Harm suffered;
 - (c) evidence from the Reporting Practitioner (as set out in clause 16(3)(h)); and
 - (d) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for future Lost Earnings in respect of which a Claim is made (e.g. evidence of compensation for future Lost Earnings previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (5) Claimants may also submit any other information that the Claimant considers relevant to the Claim for past and/or future Lost Earnings.

20 Supporting evidence and eligibility – Pain and Suffering (Tier 1 and Tier 2 claims)

- (1) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for Pain and Suffering if:
- (a) the COVID-19 Vaccine Recipient has suffered and/or is suffering Pain and Suffering; and

- (b) the Eligible Claimant provides satisfactory evidence demonstrating that the COVID-19 Vaccine Recipient has suffered and/or is suffering Pain and Suffering.
- (2) Claims for Compensation for Pain and Suffering must be accompanied by the following information:
- (a) for Tier 1 claims only:
 - (i) a short statement from the Claimant or COVID-19 Vaccine Recipient describing the impact of the Harm on the COVID-19 Vaccine Recipient, such as the impact on their:
 - (A) pre-vaccination circumstances; and
 - (B) ability to lead a normal life;
 - (ii) evidence from the Reporting Practitioner (as set out in clause 16(3)(f)), including their opinion as to whether the Pain and Suffering was most likely caused as a result of the Harm;
 - (b) for Tier 2 claims only:
 - (i) a comprehensive statement from the Claimant or COVID-19 Vaccine Recipient, and any other relevant persons, describing the impact of the Harm on the COVID-19 Vaccine Recipient's:
 - (A) pre-vaccination circumstances;
 - (B) ability to lead a normal life; and
 - (C) any other information the Claimant considers relevant; and
 - (ii) evidence from the Reporting Practitioner (as set out in clause 16(3)(g)), including their opinion as to whether the Pain and Suffering was most likely caused as a result of the Harm; and
 - (c) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for Pain and Suffering in respect of which a Claim is made (e.g. evidence of compensation for Pain and Suffering previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (3) Claimants may also submit any other information that the Claimant considers relevant to the Claim for Pain and Suffering.

21 Supporting evidence and eligibility – Care Services (Tier 1 and Tier 2 claims)

- (1) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for Gratuitous Attendant Care Services if:

- (a) the COVID-19 Vaccine Recipient has received, or will receive, Gratuitous Attendant Care Services;
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that such Gratuitous Attendant Care Services were or are required; and
 - (c) the Gratuitous Attendant Care Services have been provided (or are to be provided):
 - (i) for at least 6 hours per week, and
 - (ii) for a period of at least 6 consecutive months.
- (2) Claims for Compensation for Gratuitous Attendant Care Services must be accompanied by the following information:
- (a) satisfactory evidence that the COVID-19 Vaccine Recipient meets the requirements set out in clause 21(1), including evidence from a Reporting Practitioner as referred to in clause 16(3)(i); and
 - (b) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for Gratuitous Attendant Care Services in respect of which a Claim is made (e.g. evidence of compensation for Gratuitous Attendant Care Services previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (3) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for Paid Attendant Care Services if:
- (a) the COVID-19 Vaccine Recipient has received, or will receive, Paid Attendant Care Services; and
 - (b) the Eligible Claimant provides satisfactory evidence demonstrating that such Paid Attendant Care Services were or are required.
- (4) Claims for Paid Attendant Care Services must be accompanied by:
- (a) satisfactory evidence that the COVID-19 Vaccine Recipient meets the requirements set out in clause 21(3), including evidence from a Reporting Practitioner as referred to in clause 16(3)(j);
 - (b) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for Paid Attendant Care Services in respect of which a Claim is made (e.g. evidence of compensation for Paid Attendant Care Services previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed;

- (c) in respect of past Paid Attendant Care Services, satisfactory evidence of the costs paid or payable (e.g. receipts); and
 - (d) in respect of future Paid Attendant Care Services, satisfactory evidence of their nature, estimated duration and estimated cost (e.g. quotes).
- (5) The Eligible Claimant in a Tier 1 or Tier 2 claim will be eligible for Compensation for a Loss of Capacity to Provide Domestic Services if:
- (a) the COVID-19 Vaccine Recipient provided Gratuitous Domestic Services to Care Recipients before the Harm was suffered;
 - (b) those Care Recipients were not (or will not be) capable of performing the Gratuitous Domestic Services themselves by reason of their age or physical or mental incapacity;
 - (c) there is a reasonable expectation that the COVID-19 Vaccine Recipient would most likely have provided the services to the Care Recipients:
 - (A) for at least 6 hours per week, and
 - (B) for a period of at least 6 consecutive months; and
 - (d) there will be a need for the Gratuitous Domestic Services to be provided for those hours per week and that consecutive period of time and that need is reasonable in all of the circumstances.
- (6) Claims for Compensation for Loss of Capacity to Provide Domestic Services must be accompanied by:
- (a) satisfactory evidence that the COVID-19 Vaccine Recipient meets the requirements set out in clause 21(5), including evidence from a Reporting Practitioner as referred to in clause 16(3)(k);
 - (b) satisfactory evidence of the nature of the Gratuitous Domestic Services provided (and/or to be provided);
 - (c) satisfactory evidence that the Gratuitous Domestic Services would have been provided for at least 6 hours per week and for a period of at least 6 consecutive months; and
 - (d) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer for Gratuitous Domestic Services in respect of which a Claim is made (e.g. evidence of compensation for Gratuitous Domestic Services previously received from a Third Party Payer) or, otherwise, a statement from the Claimant or the COVID-19 Vaccine Recipient declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.
- (7) Claimants may also submit any other information that the Claimant considers relevant to the Claim for Care Services.

22 Supporting evidence and eligibility – Tier 3 Claims

- (1) Funeral Expenses may be paid in respect of a Tier 3 claim, if:
 - (a) Funeral Expenses were incurred; and
 - (b) satisfactory evidence is provided in accordance with clauses 22(4) and 22(6).
- (2) The Tier 3 Dependant Lump Sum Payment may be paid in respect of a Tier 3 claim, if:
 - (a) the Deceased COVID-19 Vaccine Recipient had one or more surviving Dependants at the time of death; and
 - (b) satisfactory evidence is provided in accordance with clauses 22(4) and 22(7).
- (3) The Tier 3 Non-Dependant Lump Sum Payment may be paid in respect of a Tier 3 claim, if:
 - (a) the Deceased COVID-19 Vaccine Recipient:
 - (i) had no surviving Dependants; and
 - (ii) had at least one surviving Parent, Non-Dependant Child or Sibling,
at the time of death (and subject to the order of eligibility of the intended beneficiaries in accordance with Table 3 in clause 36); and
 - (b) satisfactory evidence is provided in accordance with clauses 22(4) and 22(8).
- (4) Regardless of the Compensation claimed, each Tier 3 claim must be accompanied by:
 - (a) the Deceased COVID-19 Vaccine Recipient's death certificate or medical cause of death certificate;
 - (b) the Claimant's personal and contact details;
 - (c) if a grant of probate or letters of administration has been made, a copy of the grant of probate or the letter of administration or equivalent;
 - (d) satisfactory evidence that the Claimant is either a Tier 3 Estate Representative, a Tier 3 Authorised Representative or a Tier 3 Family Representative (as applicable); and
 - (e) evidence from the Reporting Practitioner as specified in clause 16, relating to Tier 3 claims.
- (5) Claimants may also submit any other information that the Claimant considers relevant to the Claim.
- (6) Claims for Funeral Expenses must be accompanied by:
 - (a) satisfactory evidence of the Funeral Expenses incurred (e.g. receipts) and who they were paid by; and

- (b) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer (but not taking into account any payments received from a life insurer of the Deceased COVID-19 Vaccine Recipient) for any Funeral Expenses in respect of which a Claim is made (e.g. evidence of compensation for Funeral Expenses previously received from a Third Party Payer) or, otherwise, a statement from the Claimant declaring either that no such entitlement exists and/or no such payments have been made, or that any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.

Note: For example, evidence of payments received from a workers compensation insurer should be provided but evidence of payments from a life insurer of the Deceased COVID-19 Vaccine Recipient do not need to be provided as they are not taken into account.

- (7) Claims for the Tier 3 Dependant Lump Sum Payment must be accompanied by:

- (a) satisfactory evidence to confirm that the Deceased COVID-19 Vaccine Recipient had one or more surviving Dependants at the time of death;
- (b) subject to 22(7)(d)(ii), the name, date of birth, and at least one contact phone number or address for all of the Dependants, and satisfactory evidence to confirm that they are each Dependants;
- (c) for Dependants who are not under 16 but under 21 years of age, satisfactory evidence as to whether they are a full-time student; and
- (d) a statutory declaration attesting to the fact that:
 - (i) the Claimant has identified each surviving Dependant and that there are no other Dependants; and
 - (ii) if the Claimant has not provided the name, date of birth, and at least one contact phone number or address for all Dependants, that any such missing information is not within the knowledge of the Claimant (or the Dependant on behalf of which the Claim is made) and that they have made reasonable endeavours to locate that information prior to making the Claim.

- (8) Claims for the Tier 3 Non-Dependant Lump Sum Payment must be accompanied by:

- (a) if the Deceased COVID-19 Vaccine Recipient is a Minor and the Claimant is a Parent of the Deceased COVID-19 Vaccine Recipient:
 - (i) satisfactory evidence to confirm that the Deceased COVID-19 Vaccine Recipient had one or more surviving Parents at the time of death;
 - (ii) subject to 22(8)(a)(iii)(C), the name, date of birth, and at least one contact phone number or address for all of the Parents, and satisfactory evidence to confirm that they are each Parents; and

- (iii) a statutory declaration attesting to the fact that:
 - (A) the Claimant has identified each Parent and that there are no other Parents; and
 - (B) the Deceased COVID-19 Vaccine Recipient has no Dependents; and
 - (C) if the Claimant has not provided the name, date of birth, and at least one contact phone number or address for all Parents, that any such missing information is not within the knowledge of the Claimant and that they have made reasonable endeavours to locate that information prior to making the Claim.
- (b) if the Deceased COVID-19 Vaccine Recipient is not a Minor or is a Minor without surviving Parents, and the Claimant is a Non-Dependant Child of the Deceased COVID-19 Vaccine Recipient:
 - (i) satisfactory evidence to confirm that the Deceased COVID-19 Vaccine Recipient had one or more surviving Non-Dependant Children at the time of death;
 - (ii) subject to 22(8)(b)(iii)(C), the name, date of birth, and at least one contact phone number or address for each Non-Dependant Child of the Deceased COVID-19 Vaccine Recipient, and satisfactory evidence to confirm that they are each Non-Dependant Children; and
 - (iii) a statutory declaration attesting to the fact that:
 - (A) the Deceased COVID-19 Vaccine Recipient has no Dependents;
 - (B) the Claimant has identified each Non-Dependant Child and that there are no other Non-Dependant Children of the Deceased COVID-19 Vaccine Recipient; and
 - (C) if the Claimant has not provided the name, date of birth, and at least one contact phone number or address for all Non-Dependant Children, that any such missing information is not within the knowledge of the Claimant and that they made reasonable endeavours to locate that information prior to making the Claim.
- (c) if the Deceased COVID-19 Vaccine Recipient is not a Minor and the Claimant is a Parent of the Deceased COVID-19 Vaccine Recipient:
 - (i) satisfactory evidence to confirm that the Deceased COVID-19 Vaccine Recipient had one or more surviving Parent at the time of death;

- (ii) subject to 22(8)(c)(iii)(C), the name, date of birth, and at least one contact phone number or address for each Parents, and satisfactory evidence to confirm that they are each Parents; and
- (iii) a statutory declaration attesting to the fact that:
 - (A) the Deceased COVID-19 Vaccine Recipient has no Dependants or Non-Dependant Children;
 - (B) the Claimant has identified each Parent and that there are no other Parents; and
 - (C) if the Claimant has not provided the name, date of birth, and at least one contact phone number or address for all Parents, that any such missing information is not within the knowledge of the Claimant and that they made reasonable endeavours to locate that information prior to making the Claim.
- (d) if the Deceased COVID-19 Vaccine Recipient is not a Minor or is a Minor without surviving Parents, and the Claimant is a Sibling of the Deceased COVID-19 Vaccine Recipient:
 - (i) satisfactory evidence to confirm that the Deceased COVID-19 Vaccine Recipient had one or more surviving Sibling at the time of death;
 - (ii) subject to 22(8)(d)(iii)(C), the name, date of birth, and at least one contact phone number or address for each Sibling, and satisfactory evidence to confirm that they are all Siblings; and
 - (iii) a statutory declaration attesting to the fact that:
 - (A) the Deceased COVID-19 Vaccine Recipient has no surviving Dependants, Non-Dependant Children or Parents;
 - (B) the Claimant has identified each Sibling and that there are no other Siblings; and
 - (C) if the Claimant has not provided the name, date of birth, and at least one contact phone number or address for all Siblings, that any such missing information is not within the knowledge of the Claimant and that they have made reasonable endeavours to locate that information prior to making the Claim.
- (9) Claims for the Tier 3 Dependant Lump Sum Payment and the Tier 3 Non-Dependant Lump Sum Payment must be accompanied by:
 - (a) evidence of any payments received from, amounts payable by, or entitlement to payments (whole or partial) from a Third Party Payer (but not taking into account any payments received from a life

insurer of the Deceased COVID-19 Vaccine Recipient) in relation to the Harm suffered or the death of the Deceased COVID-19 Vaccine Recipient; or

- (b) a statement from the Claimant declaring either that:
 - (i) no such entitlement exists and/or no such payments have been made; or
 - (ii) any such amounts paid or entitled to be paid have been deducted from the amount of Compensation claimed.

Note: For example, evidence of payments received from a workers compensation insurer should be provided but evidence of payments from a life insurer of the Deceased COVID-19 Vaccine Recipient do not need to be provided as they are not taken into account.

23 Assessment and determination to be based on documentary material

- (1) The assessment and determination of a Claim will be undertaken based on the documentary or written material submitted by the Claimant and obtained from other parties in accordance with this Policy unless Services Australia, a Medical Officer, the Assessor or Decision Maker considers further evidence or information is required in accordance with clause 24.
- (2) No oral evidence is to be taken, unless the Assessor or Decision Maker considers it necessary, for example, due to literacy or language limitations of the Claimant.

24 Additional Supporting Evidence

- (1) If Services Australia, a Medical Officer, the Assessor or the Decision Maker considers that further information or evidence is required to manage a Claim, they may request that one or more of the following be provided within a specified timeframe:
 - (a) additional information or evidence from the Claimant;
 - (b) additional information or evidence from the Secretary, including any therapeutic goods information within the meaning of section 61 of the *Therapeutic Goods Act 1989* (Cth);
 - (c) additional information or evidence from a medical practitioner, Medical Officer or any other relevant person; or
 - (d) in the case of Tier 2 claims, a further medical examination of the COVID-19 Vaccine Recipient by a nominated independent medical practitioner (convenient to the residence of the COVID-19 Vaccine Recipient) with the costs of such examination to be covered by the Scheme.
- (2) For the purposes of clause 24(1), managing a Claim includes assessment and determination of the Claim, review of decisions in relation to the Claim and any administrative action in relation to the Claim.
- (3) Clause 24(1) also applies in respect of information a Claimant is required to provide in accordance with this Policy in order to make a Claim and/or be eligible for a particular category of Compensation.

- (4) If further information or evidence is required from the Claimant, the Claimant will be notified in writing. The notice will specify the information or evidence required to be provided by the Claimant and the timeframe in which the information or evidence is to be provided.
- (5) If additional information or evidence is requested from the Claimant and the Claimant fails to provide that information or evidence within the time specified in the request without reasonable excuse:
 - (a) the Claimant may be notified that the Claim (or the part(s) of the Claim not subject to the request for information or evidence) will be assessed in the absence of the requested information or evidence; or
 - (b) if the Claim cannot be assessed in the absence of that information or evidence, the Assessor may recommend to the Decision Maker that the Claim (or the part(s) of the Claim in respect of which the information or evidence has not been provided) be suspended or rejected.

Note: For example, if a Claimant is an Eligible Claimant and their claim includes Out of Pocket Expenses and Lost Earnings, but the Claimant has (despite a request being made in accordance with this clause) failed to provide evidence of the amount of Out of Pocket Expenses incurred (e.g. receipts) within the time specified and without reasonable excuse, the Claim could proceed to be assessed in relation to Lost Earnings only or the claim for Out of Pocket Expenses could be suspended or rejected.

- (6) If the Claimant (or COVID-19 Vaccine Recipient on whose behalf a Claim has been made) incurs Out of Pocket Expenses in obtaining any additional information or evidence requested (for example, a further medical report), those costs will be treated as Past Loss for the purpose of calculating the amount of Compensation payable under the Scheme (provided the Claimant provides satisfactory evidence of the Out of Pocket Expenses incurred and claimed and provided the Claimant is determined by the Decision Maker (or Decision Maker on Review) to be an Eligible Claimant).
- (7) If further information or evidence is required from someone other than the Claimant:
 - (a) the Claimant may be notified in writing; and
 - (b) if the information or evidence is not within the scope of the consent provided by the Claimant pursuant to clause 15(1) and the Claimant's consent is necessary to obtain the information or evidence, the Claimant will be requested to provide any consent necessary in order for that further information or evidence to be obtained.

Part 5 Assessment of Claims

25 Assessment of Tier 1 claims and initial assessment of Tier 2 and Tier 3 claims

- (1) Services Australia will undertake an initial assessment of all Claims and:
 - (a) if the Claim does not meet the eligibility requirements under this Policy, the Claim may be rejected; and

- (b) if the Claim does not contain sufficient information or does not meet the procedural requirements under this Policy, the Claim may be suspended or not accepted.
- (2) Once Services Australia has undertaken the initial assessment of a Claim in accordance with clause 25(1):
 - (a) in respect of Tier 1 claims, if the Claim is not rejected or suspended, the Claim will be assessed in accordance with this Policy; and
 - (b) in respect of Tier 2 claims and Tier 3 claims, if the Claim is not rejected or suspended, the Claim:
 - (i) may be referred to the Medical Officer; and
 - (ii) will be referred to an Assessor for assessment in accordance with this Policy.
- (3) Services Australia may at any time:
 - (a) request that further information or evidence be provided in accordance with clause 24;
 - (b) recommend to the Decision Maker that a Claim be deemed not eligible and outline the basis for the recommendation; and/or
 - (c) collect, hold, use and disclose personal information relevant to the Claim.
- (4) Notwithstanding anything contained in this Policy, either Services Australia or the Assessor of a Tier 1 claim may refer a Tier 1 claim to a member of the Independent Expert Panel and, if that occurs, that member of the Independent Expert Panel will be the Assessor of that Claim and will assess that Claim as a Tier 1 claim in accordance with this Policy.

26 Initial Medical Assessment of Tier 2 and Tier 3 Claims by Department Medical Officers

- (1) A Tier 2 or Tier 3 claim may be referred in accordance with clause 25(2)(b) to a Medical Officer for assessment.
- (2) If a Tier 2 or Tier 3 claim is referred to a Medical Officer, the role of the Medical Officer is to:
 - (a) consider the medical evidence and information in the report of the Reporting Practitioner submitted by the Claimant in relation to the Harm suffered by the COVID-19 Vaccine Recipient; and
 - (b) having regard to that information and evidence assess whether:
 - (i) a Treating Practitioner in a relevant field of practice has diagnosed the COVID-19 Vaccine Recipient with Harm;
 - (ii) the diagnosis of the Treating Practitioner is accompanied by sufficient information and evidence in the report of the Reporting Practitioner to explain how that diagnosis was established (including diagnostic criteria and/or case definitions relied upon);

- (iii) sufficient evidence is presented to explain the Reporting Practitioner’s opinion as to why and the extent to which the Harm was most likely caused by the COVID-19 Vaccine (or its administration) and less likely caused by any of the COVID-19 Vaccine Recipient’s other circumstances; and
 - (iv) the report of the Reporting Practitioner contains all of the information required under clause 16(3)(c) and, in respect of Tier 3 claims only, clause 16(3)(m).
- (3) Following that assessment, the Medical Officer will provide a report stating the Medical Officer’s opinion (and brief reasons for that opinion) on:
 - (a) the matters referred to in clause 26(2)(b);
 - (b) whether the Claimant’s medical evidence is sufficient to address the matters referred to in clause 26(2)(b); and
 - (c) whether any further medical evidence is required.
- (4) The Assessor is required to have regard to the Medical Officer’s report when assessing Tier 2 and Tier 3 claims.
- (5) If the Assessor requests further medical evidence or information from the Claimant in accordance with clause 24, it may at any time ask the Medical Officer to consider that further evidence or information and provide a report stating the Medical Officer’s opinion (and brief reasons for that opinion) on any one or more of the following:
 - (a) the matters referred to in clause 26(2)(b);
 - (b) whether the Claimant’s evidence is sufficient to address the matters referred to in clause 26(2)(b); and
 - (c) whether any further evidence is required.
- (6) If the Medical Officer considers that further information or evidence is required, they may request that it be provided in accordance with clause 24.

27 Independent Expert Panel

- (1) The Independent Expert Panel will:
 - (a) be established by the Department; and
 - (b) comprise legal service providers from the Whole Of Australian Government Legal Services Panel with relevant experience in the area of personal injury litigation (or similar) and administrative law, or who are otherwise appointed by the Department to be members of the Independent Expert Panel or to assist members of the Independent Expert Panel.
- (2) In relation to each Claim referred to the Independent Expert Panel (being Tier 2 claims, Tier 3 claims, and any other Claim referred to the Panel in accordance with clause 25(4)), the role of the Panel member is to assess that Claim in accordance with this Policy.

28 Member of the Independent Expert Panel to Assess Tier 2 Claims

- (1) Each Tier 2 claim that is not rejected or suspended in accordance with clause 25(1) will be referred to a member of the Independent Expert Panel for assessment (after any initial medical assessment in accordance with clause 26) in accordance with this Policy.
- (2) The member of the Independent Expert Panel who accepts the referral must assess the Tier 2 claim and recommend to the Decision Maker whether the Claim meets the applicable eligibility requirements set out in Part 3 and, if so, the amount of Compensation payable.

29 Member of the Independent Expert Panel to Assess Tier 3 Claims

- (1) Each Tier 3 claim that is not rejected or suspended in accordance with clause 25(1) will be referred to a member of the Independent Expert Panel for assessment (after any initial medical assessment in accordance with clause 26) in accordance with this Policy.
- (2) The member of the Independent Expert Panel who accepts the referral must assess the Tier 3 claim and recommend to the Decision Maker:
 - (a) whether the Claim meets the applicable eligibility requirements as set out in Part 3 and, if so, the amount of Compensation payable;
 - (b) in relation to the Tier 3 Dependant Lump Sum Payment (if assessed to be payable), an appropriate distribution of the compensation payable between the Dependents of the Deceased COVID-19 Vaccine Recipient; and
 - (c) in relation to the Tier 3 Non-Dependant Lump Sum Payment (if assessed to be payable), the distribution of the compensation payable in accordance with clause 36(2)(a)(ii).

30 Panel Secretariat

- (1) The Assessor and Decision Maker will be supported by a secretariat within Services Australia.
- (2) Services Australia may do all things necessary or convenient to be done for, or in connection with, the performance of its secretariat functions.

31 Referral to AHPRA

- (1) In the event an Assessor considers, as a result of the information available in relation to a Claim, that there may have been harm caused by a registered health practitioner in the administration of the COVID-19 Vaccine received by the COVID-19 Vaccine Recipient, they may recommend a referral to the Australian Health Practitioner Regulation Agency (AHPRA) for a review of the practitioner's conduct or performance by the relevant professional board.

Part 6 Offers and Acceptance of Compensation and Settlement Deed

32 Communication of decisions

- (1) When the Decision Maker has made a decision in respect of a Claim (irrespective of whether or not it is determined that Compensation is payable), the Claimant (and, in respect of Tier 3 claims, also the Tier 3 Estate Representative and/or Tier 3 Authorised Representative) will be provided with:
 - (a) the Decision Maker's written decision; and
 - (b) if requested by the Claimant (or a Tier 3 Estate Representative and/or Tier 3 Authorised Representative), the reasons for the decision.
 - (c) if the Decision Maker determines that the Tier 3 Dependant Lump Sum is payable, a recommendation as to an appropriate distribution of the compensation payable between the Dependents of the Deceased COVID-19 Vaccine Recipient; and
 - (d) if the Decision Maker determines that the Tier 3 Non-Dependant Lump Sum is payable, a recommendation as to the distribution of the compensation payable in accordance with clause 36(2)(a)(ii).

33 Compensation Offer may be accepted

- (1) Subject to the requirements in this Part, if the Decision Maker determines that Compensation is payable in respect of a Claim, an offer (on behalf of the Commonwealth) will be made to:
 - (a) in respect of Tier 1 and Tier 2 claims, the Eligible Claimant; and
 - (b) in respect of Tier 3 claims, the Tier 3 Estate Representative and/or Tier 3 Authorised Representative,to pay such Compensation as the Decision Maker determines in their discretion.

34 Payment of Compensation

- (1) Subject to clauses 35 and 36, if Compensation is offered in accordance with clause 33 and the other requirements of this Part are satisfied, the Commonwealth will pay the Compensation in a lump sum:
 - (a) in respect of Tier 1 and Tier 2 claims, to the COVID-19 Vaccine Recipient or otherwise as Services Australia determines (for example, if the COVID-19 Vaccine Recipient is a Minor); and
 - (b) in respect of Tier 3 claims, to the Deceased COVID-19 Vaccine Recipient's estate.

35 Settlement Deed

- (1) Before any Compensation is paid and as a condition of receiving Compensation, a settlement deed must be executed in a form approved by the Department (and as may be determined by the Decision Maker as

considered necessary or appropriate having regard to the circumstances of a particular Claim) and will usually contain:

- (a) provisions requiring the person who executes the settlement deed to confirm that all amounts paid by a Third Party Payer have been disclosed to Services Australia;
- (b) provisions for Tier 1 claims and Tier 2 claims requiring the person who executes the settlement deed, if they (if the COVID-19 Vaccine Recipient is not the person who executes the settlement deed), the COVID-19 Vaccine Recipient or anyone else recovers any compensation, damages or similar, or other monetary amounts in respect the Harm suffered by the COVID-19 Vaccine Recipient after the date of the decision in relation to the Claim (**Tiers 1 and 2 Subsequent Recovery Amount**), to repay to the Commonwealth:
 - (i) if the Tiers 1 and 2 Subsequent Recovery Amount is more than the Compensation received under the Scheme, the Compensation received under the Scheme; or
 - (ii) if the Tiers 1 and 2 Subsequent Recovery Amount is less than the Compensation received under the Scheme, the Tiers 1 and 2 Subsequent Recovery Amount;
- (c) provisions for Tier 3 claims:
 - (i) requiring the Tier 3 Estate Representative who executes the settlement deed, if the Deceased COVID-19 Vaccine Recipient's estate recovers any compensation, damages or similar, or other monetary amounts in respect the Harm suffered by the Deceased COVID-19 Vaccine Recipient or the death of the Deceased COVID-19 Vaccine Recipient after the date of the decision in relation to the Claim (but excluding any payments received from a life insurer of the Deceased COVID-19 Vaccine Recipient) (**Tier 3 Subsequent Recovery Amount**), to repay to the Commonwealth:
 - (A) if the Tier 3 Subsequent Recovery Amount is more than the Compensation received under the Scheme, the Compensation received under the Scheme; or
 - (B) if the Tier 3 Subsequent Recovery Amount is less than the Compensation received under the Scheme, the Tier 3 Subsequent Recovery Amount;
 - (ii) in accordance with clause 36; and
- (d) any other provisions the Decision Maker considers appropriate or necessary in relation to:
 - (i) in respect of Tier 1 and Tier 2 claims, how (or to whom) the Compensation may be paid to or for the benefit of the COVID-19 Vaccine Recipient; and
 - (ii) in respect of Tier 3 claims, the intended distribution of the Compensation to the Dependants or the intended

beneficiaries in the order of eligibility in accordance with Table 3 in clause 36 (as applicable).

- (2) For the avoidance of doubt, the repayment of any Tier 3 Subsequent Recovery Amount in accordance with clauses 35(1)(c)(i) and 35(4) does not include any payments received from a life insurer of the Deceased COVID-19 Vaccine Recipient and the settlement deed will not contain provisions requiring the repayment of any Tier 3 Subsequent Recovery Amount in respect of such payments.

Note: For example, if a Tier 3 Dependant Lump Sum Payment is paid in respect of a Tier 3 claim and the Deceased COVID-19 Vaccine Recipient subsequently receives \$20,000 under a life insurance policy and \$10,000 as a result of a workers compensation claim, the amount paid as a result of the workers compensation claim will be subject to clauses 35(1)(c)(i) and 35(4) (i.e. it will need to be repaid to the Commonwealth) but the amount paid under a life insurance policy will not be subject to clauses 35(1)(c)(i) and 35(4) (i.e. it will not need to be repaid to the Commonwealth).

- (3) The settlement deed referred to in clause 35(1) above must be executed by the COVID-19 Vaccine Recipient, unless:
- (a) the Claim is made by a Tier 1 or Tier 2 Legal Representative, in which case the Tier 1 or Tier 2 Legal Representative must execute the settlement deed; and
 - (b) the claim is a Tier 3 claim, in which case, regardless of whether the Claim is made by a Tier 3 Estate Representative, a Tier 3 Authorised Representative or a Tier 3 Family Representative, the Tier 3 Estate Representative must execute the settlement deed.
- (4) Subject to clause 35(2), the obligations in the settlement deed as referred to in clause 35(1):
- (a) will be ongoing and survive past the End Date; and
 - (b) will apply in respect of every Tier 1 and 2 Subsequent Recovery Amount and Tier 3 Subsequent Recovery Amount, even if multiple amounts are recovered at different times (up to the amounts repayable to the Commonwealth in accordance with this clause 35).

Note: For example, if an Eligible Claimant of a Tier 2 claim receives Compensation of \$25,000 under the Scheme and:

- (a) recovers from an insurer the amount of \$10,000 in respect of the same Harm six months after the settlement deed is entered into;
- (b) recovers from a person the amount of \$5,000 in respect of the same Harm 1 year after the settlement deed is entered into; and
- (c) recovers from another person the amount of \$20,000 in respect of the same Harm 2 years after the settlement deed is entered into,

the Eligible Claimant will be required to repay to the Commonwealth the whole of the amounts recovered in (a) and (b) and \$10,000 of the amount recovered in (c), equating to the total amount received under the Scheme. An Eligible Claimant will never be required to repay to the Commonwealth a total amount that exceeds Compensation received by the Eligible Claimant (or COVID-19 Vaccine Recipient on whose behalf a Claim has been made).

36 Compensation for Tier 3 claims

- (1) Before any Compensation is paid in respect of a Tier 3 claim, a formal grant of probate or letter of administration in relation to the death of the

Deceased COVID-19 Vaccine Recipient must be provided to the Decision Maker.

- (2) Before any Compensation is paid in respect of a Tier 3 claim, the Tier 3 Estate Representative must execute a form of document acceptable to the Department (and as may be varied by the Decision Maker as considered necessary or appropriate having regard to the circumstances of a particular Claim), that contains an undertaking by the Tier 3 Estate Representative to:
- (a) request in writing and use best endeavours to seek any necessary consent, agreement, or otherwise from the beneficiaries of the Deceased COVID-19 Vaccine Recipient’s estate to distribute:
 - (i) any Tier 3 Dependant Lump Sum Payment between all surviving Dependants as recommended by the Decision Maker in accordance with clause 32(1)(c);
 - (ii) any Tier 3 Non-Dependant Lump Sum Payment between each member of the class of intended beneficiaries in Table 3 as recommended by the Decision Maker in accordance with clause 32(1)(d); and
 - (iii) any Funeral Expenses to the person(s) that incurred those expenses; and
 - (b) if the necessary consent, agreement, or otherwise from the beneficiaries of the Deceased COVID-19 Vaccine Recipient’s estate is provided, distribute the Compensation in accordance with clause 36(2)(a)(i) to 36(2)(a)(iii).

Table 3

Scenario	Intended beneficiaries and order of eligibility
At the date of their death, the Deceased COVID-19 Vaccine Recipient was a Minor with a surviving Parent	All surviving Parents of the Deceased COVID-19 Vaccine Recipient.
At the date of their death, the Deceased COVID-19 Vaccine Recipient: <ul style="list-style-type: none"> • was not a Minor or was a Minor with no surviving Parents; and • had a surviving Non-Dependant Child. 	All surviving Non-Dependant Children of the Deceased COVID-19 Vaccine Recipient.
At the date of their death, the Deceased COVID-19 Vaccine Recipient:	All surviving Parents of the Deceased COVID-19 Vaccine Recipient.

Scenario	Intended beneficiaries and order of eligibility
<ul style="list-style-type: none"> • was not a Minor; • did not have any surviving Non-Dependant Children; and • had a surviving Parent. 	
<p>At the date of their death, the Deceased COVID-19 Vaccine Recipient:</p> <ul style="list-style-type: none"> • was not a Minor or was a Minor with no surviving Parents; • did not have any surviving Non-Dependant Children or Parents; • had a surviving Sibling. 	<p>All surviving Siblings of the Deceased COVID-19 Vaccine Recipient.</p>

- (3) The person who executes the settlement deed must indemnify the Commonwealth in relation to any claims against the Commonwealth that may arise from or related to a failure by that person to comply with the undertakings provided pursuant to this clause 36.

37 Taxation treatment of Compensation

- (1) The taxation treatment of receipt of an amount under the Scheme is a matter to be determined in accordance with the applicable taxation laws.
- (2) Claimants should obtain professional or legal advice on the appropriate tax treatment of any payments they receive under the Scheme and any impacts on entitlements, benefits or other payments that may be associated with the receipt of payments under the Scheme.
- (3) In accordance with clause 13, the cost of obtaining advice in relation to the appropriate tax treatment of any payments received under the Scheme is not recoverable under the Scheme.

38 Declining to accept an offer of Compensation

- (1) A person to whom an offer of Compensation is made in accordance with clause 33 is not required to accept an offer of Compensation that is made to them under the Scheme.
- (2) If a person referred to in clause 38(1) does not accept an offer of Compensation within 6 months after the offer is made, that person will be deemed to have declined the offer.
- (3) If a person referred to in clause 38(1) does not accept the Compensation offered (whether expressly or pursuant to clause 38(2)) and does not seek a review of the Decision Maker's decision in accordance with clause 39(1),

that refusal will conclude the Claim and no further Claims may be made in respect of the same Harm unless otherwise permitted in accordance with clause 4 or 5.

Part 7 Review of Decisions in relation to Claims

39 Review of Decisions in respect of Claims

- (1) The Claimant may apply for a review of the decision made in respect of their Claim if:
 - (a) either:
 - (i) the Decision Maker determined that Compensation is not payable in respect of the Claim; or
 - (ii) prior to Compensation being accepted and the settlement deed being executed, the Claimant is dissatisfied with the amount of Compensation determined by the Decision Maker and offered by Services Australia on behalf of the Commonwealth; and
 - (b) the application for review is received by Services Australia on or before the End Date and before an offer of Compensation is declined by the person to whom the offer of Compensation was made (whether expressly or pursuant to clause 38(2)).
- (2) The Claimant may submit further evidence or information in support of their Claim within 28 days of applying for review.
- (3) The review will be undertaken by a Decision Maker who is of a higher level in the public service than the original Decision Maker, and the more senior Decision Maker will be the Decision Maker on Review.
- (4) The Decision Maker on Review will review the decision and determine whether the Claimant is entitled to Compensation and, if so, the amount of Compensation that should be paid to the Claimant.
- (5) At any point in which they consider it appropriate, Services Australia and/or the Decision Maker on Review may involve or seek input from the Panel and/or the Medical Officer in relation to the review of a Claim.
- (6) The decision of the Decision Maker on Review will supersede and replace the original decision, regardless of whether it results in a more or less favourable outcome for the Claimant.
- (7) After the Decision Maker on Review makes a determination in accordance with clause 39(4) the Claimant (and, in respect of a Tier 3 claim in which the Claimant is not a Tier 3 Estate Representative or Tier 3 Authorised Representative, the Tier 3 Estate Representative) will be informed of that decision in accordance with clause 32.
- (8) If the Decision Maker on Review determines that the Claimant is entitled to Compensation, an offer (on behalf of the Commonwealth) will be made in accordance with clause 33 which will be subject to Part 6 of this Policy.

- (9) If the Decision Maker on Review determines that Compensation is not payable in respect of the Claim, the Claim will conclude and the Claimant will not be permitted to:
- (a) make any further Claims under the Scheme in respect of the same Harm unless otherwise permitted in accordance with clause 4 or 5;
or
 - (b) apply for a further review of the Claim under this Part.

Schedule 1

1 Maximum Compensation Benchmarks

(1) In respect of each head of Compensation claimed by the Claimant, the following are considered to be the Maximum Compensation Benchmarks:

(a) for Lost Earnings, an amount per week that is up to 3 times the Average Weekly Earnings Amount;

(b) for Gratuitous Attendant Care Services:

(i) provided or to be provided for 40 hours per week or more, the Average Weekly Earnings Amount; and

Note: For example, if 50 hours of Gratuitous Attendant Care Services are provided in a week, the Claimant will be entitled to Compensation of \$1,737.10 for that week (being the Average Weekly Earnings Amount).

(ii) provided or to be provided for less than 40 hours per week, an amount calculated using an hourly rate of one-fortieth of the Average Weekly Earnings Amount;

Note: For example, if 5 hours of Gratuitous Attendant Care Services are provided in a week, the Claimant will be entitled to Compensation of \$217.15 for that week (being \$1,737.10 (i.e. the Average Weekly Earnings Amount) divided by 40 and multiplied by 5).

(c) for Loss of Capacity to Provide Domestic Services, an amount calculated at an hourly rate of one-fortieth of the Average Weekly Earnings Amount regardless of the number of hours involved;

(d) for Pain and Suffering, \$693,500;

(e) for the Tier 3 Dependant Lump Sum Payment, the amount specified in the definition of Tier 3 Dependant Lump Sum Payment;

(f) for the Tier 3 Non-Dependant Lump Sum Payment, the amount specified in the definition of Tier 3 Dependant Lump Sum Payment.

(2) The following heads of Compensation are not subject to a Maximum Compensation Benchmark. The Decision Maker may not determine that the Claimant should receive an amount:

(a) in respect of Funeral Expenses, in excess of the amount specified in the definition of Funeral Expenses;

(b) in respect of Out of Pocket Expenses:

- (i) in respect of past Out of Pocket Expenses, in excess of the amount paid out of pocket by or on behalf of the COVID-19 Vaccine Recipient in respect of each cost;
 - (ii) in respect of future Out of Pocket Expenses, in excess of the amount expected to be paid out of pocket by or on behalf of the COVID-19 Vaccine Recipient in respect of each cost; and
 - (iii) in respect of Tier 2 claims, in excess of a reasonable amount for that expense (in the opinion of the Panel and the Decision Maker); and
- (c) in respect of Paid Attendant Care Services:
- (i) in respect of past Paid Attendant Care Services, in excess of the amount paid out of pocket by or on behalf of the COVID-19 Vaccine Recipient in respect of each cost;
 - (ii) in respect of future Paid Attendant Care Services, in excess of the amount expected to be paid out of pocket by or on behalf of the COVID-19 Vaccine Recipient in respect of each cost; and
 - (iii) in respect of Tier 2 claims, in excess of a reasonable amount for that expense (in the opinion of the Panel and the Decision Maker).
- (3) In respect of all Claims, where the Assessor is an officer in Services Australia, the Assessor cannot recommend that Compensation be paid in excess of the Maximum Compensation Benchmark.
- (4) While the Maximum Compensation Benchmark is not expected to be exceeded in most circumstances, where the Assessor is a member of the Independent Expert Panel, the Assessor may recommend, and/or the Decision Maker may determine, to award an amount above the Maximum Compensation Benchmark in respect of the Compensation referred to in item 1(1) of Schedule 1.

2 Calculating Out of Pocket Expenses

- (1) When calculating an entitlement to Compensation for Out of Pocket Expenses, the Assessor must:
- (a) in respect of past costs, assess the cost of the Out of Pocket Expenses incurred and, based on that, the Compensation payable for Out of Pocket Expenses having regard to item 1(2)(b) of Schedule 1.
 - (b) in respect of future costs assess:

- (i) and estimate the Out of Pocket Expenses that are expected to be incurred in the future;
 - (ii) based on that calculation, the Compensation payable for future Out of Pocket Expenses having regard to item 1(2)(b) of Schedule 1; and
 - (iii) in respect of Tier 2 claims, discount the amount assessed by 5%.
- (2) In respect of past and future Out of Pocket Expenses, the Assessor must:
 - (a) exclude any amounts paid or payable by a Third Party Payer for Out of Pocket Expenses; and
 - (b) not recommend that Compensation be paid in respect of such amounts.

3 Calculating Lost Earnings

- (1) When calculating an entitlement to Compensation for Lost Earnings, the Assessor must:
 - (a) in respect of past Lost Earnings, assess:
 - (i) the COVID-19 Vaccine Recipient's Income at the time the Harm was suffered;
 - (ii) the number of hours or days the COVID-19 Vaccine Recipient was unable to earn Income or earned a reduced Income by reason of the Harm;
 - (iii) the extent to which the exclusions in the definition of Lost Earnings apply; and
 - (iv) based on the above matters, the Compensation for past Lost Earnings that should be paid having regard to the Maximum Compensation Benchmark.
 - (b) in respect of future Lost Earnings:
 - (i) assess:
 - (A) the COVID-19 Vaccine Recipient's Income at the time the Harm was suffered;
 - (B) the number of hours or days the COVID-19 Vaccine Recipient is expected to be unable to earn Income or earn a reduced Income by reason of the Harm;
 - (C) and estimate the COVID-19 Vaccine Recipient's likely Income during the period

in which they will be unable to earn their Income;

- (D) the extent to which the exclusions in the definition of Lost Earnings apply; and
- (E) based on the above matters, the Compensation for future Lost Earnings that should be paid having regard to the Maximum Compensation Benchmark; and

- (ii) in respect of Tier 2 claims, discount the amount assessed by 5%.

(2) In respect of past and future Lost Earnings, the Assessor must:

- (a) exclude any amounts paid or payable by a Third Party Payer for Lost Earnings; and
- (b) not recommend that Compensation be paid in respect of such amounts.

4 Calculating the value of Care Services

(1) When calculating an entitlement to Compensation for Gratuitous Attendant Care Services, the Assessor must assess:

- (a) the number of hours per week the Gratuitous Attendant Care Services have been or will be provided to the COVID-19 Vaccine Recipient and the period over which they have been or will be provided; and
- (b) based on that calculation, the Compensation for Gratuitous Attendant Care Services that should be paid having regard to the Maximum Compensation Benchmark.

(2) When calculating an entitlement to Compensation for Paid Attendant Care Services, the Assessor is to assess:

- (a) in respect of past costs, the cost of the Paid Attendant Care Services provided and, based on that, the Compensation for Paid Attendant Care Services having regard to item 1(2)(c) of Schedule 1.
- (b) in respect of future costs:
 - (i) estimate the number of hours per week the Paid Attendant Care Services are likely to be provided to the COVID-19 Vaccine Recipient and the period over which they are likely to be provided; and
 - (ii) based on that calculation, the Compensation for Paid Attendant Care Services having regard to item 1(2)(c) of Schedule 1.

- (3) When calculating an entitlement to Compensation for Loss of Capacity to Provide Domestic Services, the Assessor must assess:
 - (a) the number of hours per week the Gratuitous Domestic Services have been or will be provided by the COVID-19 Vaccine Recipient to a Care Recipient and the period over which they have been or will be provided; and
 - (b) based on that calculation, the Compensation for Loss of Capacity to Provide Domestic Services having regard to the Maximum Compensation Benchmark.
- (4) Notwithstanding item 4(3) of Schedule 1, when calculating an entitlement to Compensation for Loss of Capacity to Provide Domestic Services, if a Care Recipient:
 - (a) has received or will receive Assisted Care during the 6-month period referred to in clause 21(5)(c)(B); and
 - (b) the Assessor is satisfied that the periods in which the Assisted Care were or will be short-term and occasional, the Assessor may, in assessing whether the COVID-19 Vaccine Recipient would have provided or will provide Gratuitous Domestic Services to the Care Recipient:
 - (c) during a particular week for at least 6 hours referred to in clause 21(5)(c)(A), disregard the week if Assisted Care was provided during that week, and
 - (d) during the 6-month period referred to in clause 21(5)(c)(B), disregard any periods during which the Assisted Care was or will be provided in that 6-month period, but only if the total number of weeks in which the care was or will be provided during the 6-month period does not exceed 4 weeks in total.
- (5) In respect of the value of Care Services, the Assessor must:
 - (a) exclude any amounts paid or payable by a Third Party Payer for Care Services;
 - (b) not recommend that Compensation be paid in respect of such amounts; and
 - (c) in respect of future costs claimed in Tier 2 claims, discount the amount assessed by 5%.

5 Calculating Pain and Suffering

For a Tier 1 claim

For a Tier 1 claim, the Compensation to be paid for Pain and Suffering is 25% of the Loss Less Pain and Suffering Amount.

Note: For example, an Eligible Claimant whose Loss Less Pain and Suffering Amount is \$15,000 and has suffered and claims Pain and Suffering will receive 25% of that amount as Compensation for Pain and Suffering, or \$3,750, for a total Compensation amount of \$18,750.

For a Tier 2 claim

- (1) For a Tier 2 claim, the Compensation to be paid for Pain and Suffering is to be determined based on the severity of the COVID-19 Vaccine Recipient's Pain and Suffering as a proportion of the most extreme case.
- (2) The Compensation for a Tier 2 claim is to be determined in accordance with the Table below (**Pain and Suffering Table**).

Column 1	Column 2
Severity of Pain and Suffering (as a proportion of the most extreme case)	Compensation for Pain and Suffering (as a proportion of the Maximum Compensation Benchmark)
Up to 15%	1%
16%	1.5%
17%	2%
18%	2.5%
19%	3%
20%	3.5%
21%	4%
22%	4.5%
23%	5%
24%	5.5%
25%	6.5%
26%	8%
27%	10%
28%	14%
29%	18%
30%	23%

Column 1	Column 2
Severity of Pain and Suffering (as a proportion of the most extreme case)	Compensation for Pain and Suffering (as a proportion of the Maximum Compensation Benchmark)
31%	26%
32%	30%
33%–100%	33%–100% respectively

- (3) To assess the Compensation to be paid for Pain and Suffering, the Assessor must:
- (a) assess the severity of the COVID-19 Vaccine Recipient’s Pain and Suffering as a proportion of a most extreme case, expressed as a percentage and in doing so have regard to (without being limited to) the opinion of the Reporting Practitioner referred to in clause 16(3)(g);
 - (b) use the Pain and Suffering Table to assess the percentage of the Maximum Compensation Benchmark on the basis that the percentage in column 1 corresponds to the percentage in the same row in column 2; and
 - (c) multiply the percentage in column 2 by the Maximum Compensation Benchmark to calculate the Compensation to be paid to the Eligible Claimant for Pain and Suffering.

Note: For example, if the severity of COVID-19 Vaccine Recipient’s Pain and Suffering as a proportion of the most extreme case is 20%, the Compensation for Pain and Suffering as a proportion of the Maximum Compensation Benchmark is 3.5%, and the Compensation payable for Pain and Suffering is therefore 3.5% of the Maximum Compensation Benchmark (\$24,272.50).

For Tier 1 and Tier 2 claims

- (4) In respect of Pain and Suffering, the Assessor must:
- (a) exclude any amounts paid or payable by a Third Party Payer for Pain and Suffering; and
 - (b) not recommend that Compensation be paid in respect of such amounts.

6 Calculating Compensation for a Tier 3 claim

- (1) When calculating an entitlement to Funeral Expenses, the Assessor must:
- (a) have regard to the expenses actually incurred and consider whether those expenses were reasonable;

- (b) have regard to item 1(2)(a) of Schedule 1; and
- (c) exclude any amounts paid or payable by a Third Party Payer (but not subtracting any payments that have been or may be received from a life insurer of the Deceased COVID-19 Vaccine Recipient) for Funeral Expenses and not recommend that Compensation be paid in respect of such amounts.

Note: For example, evidence of payments received from a workers compensation insurer should be subtracted but evidence of payments from a life insurer of the Deceased COVID-19 Vaccine Recipient should not be subtracted.

(2) When calculating an entitlement to the Tier 3 Dependant Lump Sum Payment, the Assessor is to:

- (a) determine whether the Deceased COVID-19 Vaccine Recipient had any Dependants, and if so:
 - (i) the number of Dependants of the Deceased COVID-19 Vaccine Recipient at the time of their death; and
 - (ii) in respect of each Dependant, their relationship to the Deceased COVID-19 Vaccine Recipient; and
 - (iii) in respect of each Dependant that is a child under 21 years of age, their age (and if not under 16 but under 21 years of age, whether they are a full-time student); and
 - (iv) assess the Tier 3 Dependant Lump Sum Payment payable in accordance with the method set out in the definition of Tier 3 Dependant Lump Sum Payment.

(3) If:

- (a) the Claimant is not eligible to claim the Tier 3 Dependant Lump Sum Payment;
- (b) the Deceased COVID-19 Vaccine Recipient:
 - (i) had no surviving Dependants; and
 - (ii) had at least one surviving Parent, Non-Dependant Child or Sibling,

at the time of death (and subject to the order of eligibility of the intended beneficiaries in accordance with Table 3 in clause 36); and

- (c) the Assessor is satisfied that the Deceased COVID-19 Vaccine Recipient suffered Harm and that such Harm caused or materially contributed to their death;

the Assessor is to recommend that the Tier 3 Non-Dependant Lump Sum Payment be paid.

- (4) Further, in respect of Claims made in accordance with clause 5(5), after assessing the amount of Compensation payable, the Assessor must subtract from that amount, the amount of Compensation that was paid in relation to the previous Tier 1 or Tier 2 claim.

Note: For example, if:

- (a) a COVID-19 Vaccine Recipient successfully makes a Tier 1 claim and is paid Compensation of \$8,000.00 but, after receiving that amount, dies and their Harm caused or materially contributed to their death; and
- (b) an Eligible Claimant successfully makes a Tier 3 claim in relation to the COVID-19 Vaccine Recipient's death and is determined to be entitled to the Tier 3 Non-Dependant Lump Sum Payment of \$70,680.00,

\$62,680.00 will be payable (being \$70,680.00 (the Tier 3 Non-Dependant Lump Sum Payment) minus \$8,000.00 (the amount paid in respect of the initial Tier 1 claim)).

- (5) In respect of the Tier 3 Dependant Lump Sum Payment and the Tier 3 Non-Dependant Lump Sum Payment, the Assessor must subtract any amounts paid or payable by a Third Party Payer in relation to the Harm suffered or the death of the Deceased COVID-19 Vaccine Recipient (but not subtracting any payments that have been or may be received from a life insurer of the Deceased COVID-19 Vaccine Recipient).

Note: For example, evidence of payments received from a workers compensation insurer should be subtracted but evidence of payments from a life insurer of the Deceased COVID-19 Vaccine Recipient should not be subtracted.

- (6) For the avoidance of doubt, the Assessor should not subtract any payments that have been or may be received from a life insurer of the Deceased COVID-19 Vaccine Recipient when assessing the Funeral Expenses, Tier 3 Dependant Lump Sum Payment and/or Tier 3 Non-Dependant Lump Sum Payment that may be payable in accordance with this Policy.

Schedule 2 Details of amendments to this Policy

Clause	Change	Version	Effective date
Date and version number on covering page	Amended	1.1	9.12.2021
Page and clause numbering	Consequential amendments	1.1	9.12.2021
Subclause (b) of the definition of Compensation	Amended	1.1	9.12.2021
Definition of Tier 3 Dependant Lump Sum Payment	Amended	1.1	9.12.2021
Definition of Tier 3 Non-Dependant Lump Sum Payment	Amended	1.1	9.12.2021
Definition of Tier 3 Subsequent Recovery Amount	Amended	1.1	9.12.2021
Definition of Tiers 1 and 2 Subsequent Recovery Amount	Amended (cross-reference correction only)	1.1	9.12.2021
Clause 5(5)	Amended (cross-reference correction only)	1.1	9.12.2021
Clause 15(1)(a)	Amended	1.1	9.12.2021
Clause 35(1)(a)	Inserted	1.1	9.12.2021
Clause 35(1)(b)	Amended	1.1	9.12.2021
Clause 35(1)(c)	Amended	1.1	9.12.2021
Clause 35(2)	Amended (cross-reference correction only)	1.1	9.12.2021
Clause 35(4)	Amended	1.1	9.12.2021
Clause 36(2)	Amended	1.1	9.12.2021
Schedule 1, item 2(1)(a)	Amended (cross-reference correction only)	1.1	9.12.2021
Schedule 1, item 2(1)(b)(ii)	Amended (cross-reference correction only)	1.1	9.12.2021
Schedule 1, item 4(2)(a)	Amended (cross-reference correction only)	1.1	9.12.2021
Schedule 1, item 4(2)(b)(ii)	Amended (cross-reference correction only)	1.1	9.12.2021
Schedule 1, item 6(1)(b)	Amended (cross-reference correction only)	1.1	9.12.2021
Date and version number on covering page	Amended	1.2	21.3.2022
Page and clause numbering	Consequential amendments	1.2	21.3.2022
Table 1, Item 1, Column 2 and new note to table	Amended	1.2	21.3.2022