

## **Guidelines for using Statutory Declarations in applications for Tier classification**

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**1. Introduction** These procedures outline the requirements to be met in order for statutory declarations to be considered as evidence in the assessment of applications for Tier classification made by F-111 workers.

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**2. What is a statutory declaration?** A statutory declaration is a written statement declared to be true in the presence of an authorised witness. You must use the form of statutory declaration that complies with the requirements of the *Statutory Declarations Act 1959* and the *Statutory Declarations Regulations 1993*.

Electronic copies of the forms which must be used, and information about using statutory declarations, can be found on the Attorney General's website <http://www.ag.gov.au/statdec>, or printed copies can be obtained from your local DVA office.

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**3. Acceptable statutory declaration for F-111 applications** In order for the information in a statutory declaration to be accepted as evidence for F111 applications, it must be:

1. a corroborated statutory declaration, meaning: the information contained in a statutory declaration must be supported or confirmed by primary or secondary evidence; or,
2. where no primary or secondary evidence is available the claimant must provide two statutory declarations: one made by the claimant and a second supporting statutory declaration made by an authorised person (see below).

Where the claimant cannot provide a supporting statutory declaration the claim assessors should still conduct a thorough investigation into the statements made in the first statutory declaration and also the reasons as to why a 2<sup>nd</sup> declaration cannot be provided.

At all times assessors should show sensitivity to the applicants and seek to be inclusive in their determinations, giving all applicants sufficient opportunity and support to have their claims accepted.

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**4. What needs to be included in a claimant's statutory declaration?**

A statutory declaration made by a person claiming F-111 benefits should include the following information:

- full particulars and history of service including overall dates;
- type of employment;
- approximate dates when involved in tasks described in Tier 1, 2 or 3 definitions;
- if fuel tank entry was involved, details of entry including types of duties;
- an explanation as to why there are no official records, if known;
- details of any documents that were in the person's possession and why/how they were lost;
- names of other persons working with the claimant at the same time who can corroborate the person's fuel tank entry work and how they know the claimant, and those persons' contact details, if known.

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**5. What needs to be included in an authorised person's statutory declaration?**

A supporting statutory declaration made by an authorised person should include the following information:

- periods of supervision of, or association with, the claimant whilst undertaking fuel tank maintenance requiring fuel tank entry or other eligible tasks;
- details of claimant's roles, including any fuel tank entry work; and
- if applicable, the date of decision of the authorised person's Tier status.

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**6. Who is an authorised person?**

An authorised person is:

- a commanding officer; or
- a person who was the claimant's supervising trade NCO at the time of fuel tank entry or entries or at the time they undertook other eligible tasks; or
- a person who worked directly with the claimant as:
  - a superior; **or**
  - a co-worker;who has been determined to have Tier 1, Tier 2 or Tier 3 status; and whose own claim for Tier status had primary or secondary evidence taken into account.

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**7. Weighting of evidence**

When applications for Tier status classification are being determined all of the evidence available is considered and the decision maker must be satisfied that on the balance of probability, the available evidence satisfies the eligibility criteria.

Primary and secondary evidence is given the highest weighting. If official records are not available or provide insufficient evidence to make a determination, statutory declarations may be considered in the decision making process.

The weighting of evidence may be affected where evidence is found that contradicts the claims made.

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**8. Order of weighting of evidence**

The evidence used in the decision making process (order of weighting is from highest to lowest) includes:

1. Primary evidence – sourced from official Air Force (or other employer) records:
    - individual service and personnel records;
    - the Airman’s Trade Progress Sheet;
    - Air Force Record of Training and Employment;
    - Defence pay records where they show evidence of tank entry;
    - Fuel Tank Entry Permits (from 1993-2000).
  2. Secondary evidence – sourced from:
    - statements made to the Air Force Board of Inquiry or in support of an individual’s compensation claim;
    - the individual’s application for inclusion in the Interim or SHOAMP Health Care Schemes.
  3. Tertiary evidence:
    - statutory declaration corroborated by primary or secondary evidence;
    - information in a statutory declaration by the claimant, along with a second supporting statutory declaration made by an authorised person;
    - personal photographs;
    - personal copies of service records which are not available in official individual personnel records.
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**9. Contradictory primary/secondary evidence**

Two statutory declarations which provide information supporting eligibility are taken as evidence in the administrative decision making process. Where primary or secondary evidence is found which contradicts the evidence provided in the statutory declarations, the competing evidence will be considered.

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**10. Test of plausibility**

It should be noted that the provision of two statutory declarations does not automatically result in the end of the investigation process. The eligibility assessment team must still investigate the claim, which includes attempting to source primary and secondary evidence, or otherwise, of the person's eligibility. The investigations team will make every effort to verify information contained in statutory declarations.

The content of the two statutory declarations will be subject to a test of plausibility in the same way that other evidence is assessed. It should be noted that as a result of this testing, contrary evidence may emerge.

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**11. Suspected fraud cases**

A person who wilfully makes a false statement in a statutory declaration is guilty of an offence and may be fined or jailed, or both.

All claims where evidence suggests a person has deliberately made a false statement by statutory declaration will be referred to the DVA Compliance Section for further investigation.

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**12. Contact**

Any questions about these procedures should be directed to DVA F-111 Team by calling 1800 555 323.

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