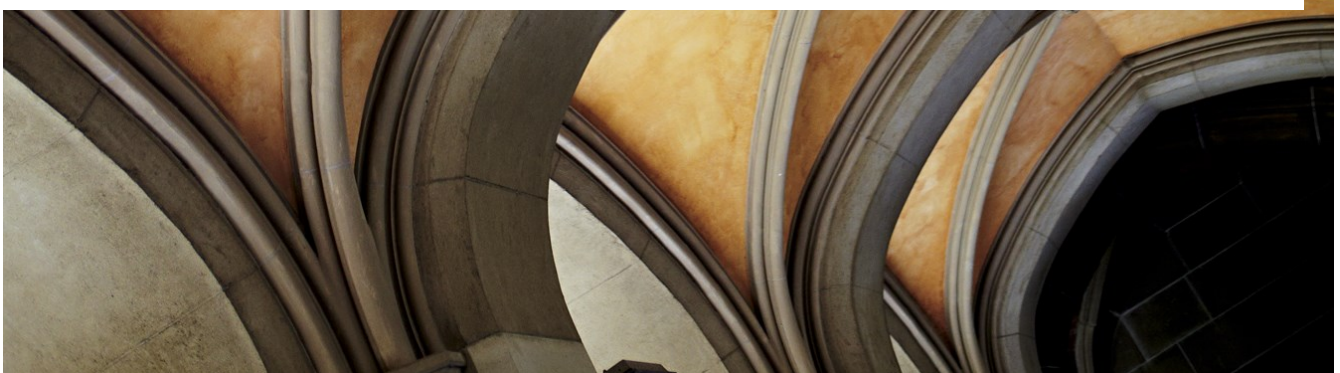




Early release of superannuation benefits

Submission by UniSuper

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About UniSuper

UniSuper is the superannuation fund dedicated to people working in Australia's higher education and research sector. With approximately 400,000 members and around \$63 billion in assets under management, UniSuper is one of Australia's largest superannuation funds and has one of the very few open defined benefit schemes.

UniSuper Management Pty Ltd would welcome the opportunity to discuss the submission further and to provide additional information in respect of the comments made in this submission. Should you have further queries, please contact Benedict Davies on 61 3 8831 6670 or benedict.davies@unisuper.com.au

Principles underpinning early release

The primary purpose of superannuation funds is to support members in retirement. There are instances, however, when members may need to access their superannuation prior to preservation age or formal retirement. One clear and well-established example of this is when a member retires from the workforce as a result of poor health or disability. Superannuation funds have a long history of protecting their members from these events with life, disability, and income protection insurance.

There are also other reasons why members may need early access to their superannuation. One of these reasons - genuine hardship – is neither an easily insurable event nor a central part of most funds' benefit structure. The arrangements that have been in place over the past 20 years, however, do provide members with important but limited access to their retirement savings, generally, as a *last resort*. These rules clearly involve a trade-off between preserving superannuation for retirement and releasing it to satisfy present needs. As a result, the policy settings need to focus on getting this balance right. Currently as it stands, there appears to be limited evidence that the balance of the existing early release rules isn't quite right. Consequently, we would be surprised if this consultation resulted in substantial restrictions on early access or, on the other hand, lead to policies that substantially extended the grounds for early access or saw larger and more frequent amounts being released.

We do, however, suggest that improvements to the early release *process* are desirable. One relatively simple reform would be to centralise the approvals process. Currently, the compassionate grounds claims are assessed by a government agency while financial hardship claims are assessed by superannuation funds. Our preference would be for both types of claims to be primarily assessed by a single government agency with the role of superannuation funds being limited to paying approved benefits. We believe that this removes the subjectivity inherent in the current rules. Funds currently use their discretion to assess whether a member is “unable to meet reasonable and immediate family living expenses”. In the absence of prescriptive industry guidance on how to administer these rules, there has arisen a diversity of approaches which results in differing outcomes for members of different funds. This is in contrast to the proposed principle in the consultation document to limit the amount of: “Rules that are highly subjective in nature will necessarily cause more red tape, expense and difficulty for applicants, trustees and Government.

A second and related reform would be to streamline the approvals process with a digital-first approach. This could be done if the single government agency handling both compassionate grounds and financial hardship claims used SuperStream (rather than the current paperwork-heavy approvals process). There are substantial efficiency gains from taking full advantage of the SuperStream system now it has been built. Another benefit would be to reduce the risk of identity fraud through compromised or counterfeited paperwork. As it is already proposed to transfer the compassionate grounds approvals process to the ATO, we think it makes sense to also transfer financial hardship approvals so that both approval processes are made more consistent and efficient.

Specific comments on question 3.7

Question 3.7 Should access to a perpetrator's superannuation be in the form of a lump sum, portions of income stream payments or both? How should defined benefit products and annuities that have not yet commenced payments be treated?

If there were to be a policy whereby victims of crime could access a perpetrator's superannuation, the occurrence of such payments would – we assume – be irregular and infrequent. As such, the rules would need to mirror – as much as possible – existing benefit payment processes for early release. After all, it would be both expensive and burdensome to administer standalone rules for events that might happen less frequently than once a year.

In the case of DB funds, prescribed valuation rules for lump sums would likely be required. Therefore, we strongly encourage making use of the existing family law split framework for undertaking any such valuations. The valuation process for family law splits is now reasonably well-established (even though it still requires a reasonable amount of actuarial support for calculations and guidance).

In-stream payments, on the other hand, could be dealt with under payment arrangements akin to garnishee orders, with amounts awarded by Courts withheld from pension payments at the source under a withholding advice from the ATO. The withheld amounts could then be paid directly to the ATO until any outstanding Court-awarded amounts had been satisfied.

Again, this approach should align the ATO's role with other forms of early release (see previous section), recognising that the ATO's role has now become far more than that of tax collector; the ATO now has a key role as an intermediary in the retirement system through SuperStream. (Note: a recent precedent for the ATO assuming the role of pass-through intermediary is the first home superannuation saver rules under which superannuation providers pay approved amounts to the ATO who then pay those amounts onto members/taxpayers to purchase a house.)