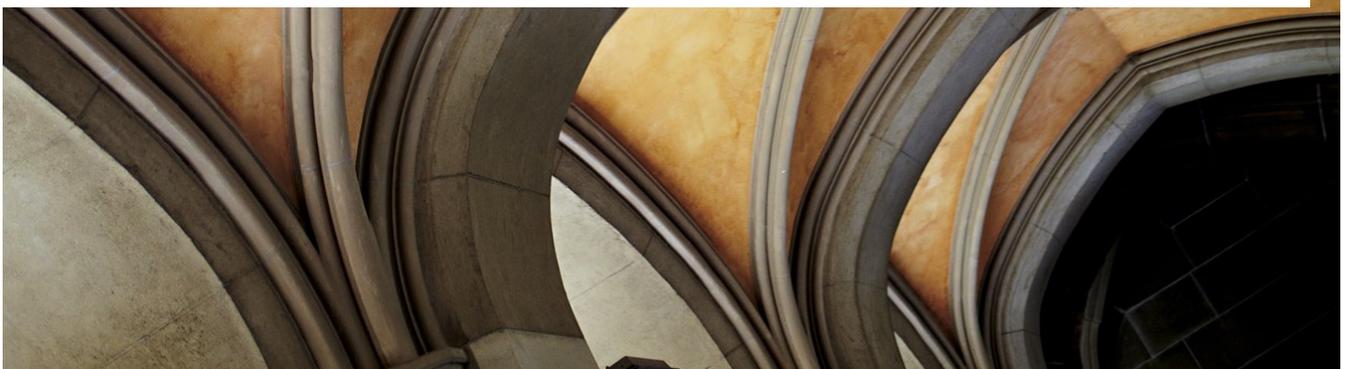




Review of superannuation and victims of crime compensation

Submission by UniSuper

15 June 2018



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 \$66 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

Preventing use of superannuation contributions to shield assets from victims of crime

UniSuper has made two earlier submissions to this Consultation, and this submission focusses on two of the issues on which you are seeking feedback.

The Consultation Paper proposes an ‘out of character’ contribution test in order to claw back certain contributions made to superannuation. It proposes two options.

- Option 1: a court *or* a superannuation fund would apply a subjective assessment; &
- Option 2: *all* voluntary contributions are taken as a proxy for out-of-character contributions

Option 1 appears to be in fact two options: either a court *or* a superannuation fund applies a subjective objective assessment. As we have highlighted in previous submissions to this consultation, we would prefer that the rules dealing with early release are not subjective and are consistent across funds for members. To that end, a court is preferable to superannuation funds making this assessment. After all, in Treasury’s earlier Consultation Paper on Early Release, a sound principle to avoid subjectivity was flagged: “Rules that are highly subjective in nature will necessarily cause more red tape, expense and difficulty for applicants, trustees and Government.” Thus we prefer Option 1 so long as courts and not superannuation funds make that assessment.

We note “out-of-character” contributions are not compulsory contributions. We suggest it would be helpful to provide more details as to what “compulsory contributions” actually are. For example, we suggest that contributions made to fund a defined benefit are never “out-of-character”; nor would be contributions made to satisfy an obligation under an industrial agreement such as an award. There may also be other situations, for example, contributions required under state legislation so it would be helpful to further define and clearly exempt some contributions from this test.

The Consultation Paper proposes two processes for recovering money:

- Option 1: payment to a court which then distributes the proceeds
- Option 2: payment through a centralised and streamline process

In earlier submissions, we suggested that a single government agency should handle both compassionate grounds and financial hardship claims and that, further, SuperStream (rather than the current paperwork-heavy approvals process) should be used wherever possible. To that end, we foresee substantial efficiency gains from taking full advantage of the SuperStream system and support Option 2.