

The Parliament of the Commonwealth of Australia

**EARLY ACCESS  
TO  
SUPERANNUATION BENEFITS**

**SENATE SELECT COMMITTEE  
ON SUPERANNUATION AND FINANCIAL SERVICES**

January 2002

Commonwealth of Australia

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## **TERMS OF REFERENCE**

On 24 September 2001 the Senate referred the following matter to the Select Committee on Superannuation and Financial Services for inquiry and report by 31 January 2002:

The effectiveness and efficiency of the current rules governing early access to superannuation benefits on existing compassionate and severe financial hardship grounds.



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## PREFACE

The issue of whether superannuation fund members should be able to access some of their preserved benefits before retirement age is a complex one. Since the purpose of superannuation is to provide funds for people to use in retirement, it is more helpful if the funds are preserved in their entirety for this purpose. However, there are certain circumstances where access to those funds early can assist overcoming a severe financial hardship or providing some compassionate relief. In this report, the Committee has explored these and other related issues.

The Committee has identified a need for the availability of early access to superannuation benefits to be considered in the broader context of the adequacy of current social security measures, as access to superannuation savings should not be seen as a first port of call for those experiencing financial difficulties.

With some funds allowing early access on some grounds and others not allowing access under any circumstances, the Committee has also identified a need for greater consistency in the rules governing early access, particularly for accumulation funds.

Most importantly the Committee has identified that the different approaches to early access by different funds and the absence of any central record keeping has made it very difficult to identify any significant trends such as:

- the extent to which funds are being accessed early;
- the extent to which there are multiple claims on the same or different funds;
- the extent to which trustees apply subjective discretion in interpreting the criteria applying to severe financial hardship claims; and
- the extent to which released funds are spent appropriately.

To address this, the Committee has recommended that the administration of all claims for early release of superannuation benefits, whether they be on the grounds of severe financial hardship or compassionate grounds – or specified criteria – be the responsibility of one agency, preferably Centrelink. In making this recommendation, the Committee was mindful of the fact that people needing to access their superannuation early would also be likely to benefit from financial and emotional counselling. With adequate resourcing and trained counselling staff, Centrelink would also then be in a position to monitor and analyse trends.

Further simplification of the administration of the provisions could also be achieved by having one external review body or mechanism, instead of the current arrangements whereby appeals against trustees' decisions on severe financial hardship

claims are referred to the Superannuation Complaints Tribunal and complaints about APRA's determinations are investigated by the Commonwealth Ombudsman.

The Committee has noted that there are a number of circumstances where extending the criteria governing early access may be appropriate and has recommended that the Government consider extending the criteria. However, the Committee cautions that while early access under certain circumstances should be permitted, it should not be made too easy because of the danger of eroding retirement incomes.

The rules governing early access could also be simplified by removing the distinction between the two types of criteria – severe financial hardship and compassionate grounds – and replacing them with one common set of specified criteria.

The Committee considers that by making the rules more consistent, centralising data collection and the administration of the rules in the hands of one agency, extending - in a limited way - the grounds for early release and simplifying their administration, the rules governing early access can be more effective and efficient.

I commend the report to the Senate.

**Senator John Watson**  
**Chair**

## **RECOMMENDATIONS**

### **Recommendation 1 (paragraph 2.51)**

**The Committee recommends that the Government review the adequacy of current social security measures to provide relief in cases of severe financial hardship as part of an overall review of the Government's retirement incomes policy.**

### **Recommendation 2 (paragraph 3.18)**

**The Committee recommends that information be collected annually on the total number, value and type of early release payments by superannuation funds, in order to allow for analysis of trends in those payments.**

### **Recommendation 3 (paragraph 3.29)**

**The Committee recommends that the rules governing early access to superannuation benefits be consistent for all accumulation funds.**

### **Recommendation 4 (paragraph 3.30)**

**The Committee recommends that the Government examine how defined benefit funds, including the Commonwealth civilian and defence force funds, could make the early release of benefits available to those members to whom it is not currently available.**

### **Recommendation 5 (paragraph 3.74)**

**The Committee recommends that all early release payments on the basis of severe financial hardship and compassionate grounds (or specified criteria) be administered by a single government agency, which must be provided with adequate funding and staffing, and suggests that Centrelink would appear to be the appropriate agency.**

### **Recommendation 6 (paragraph 3.75)**

**The Committee recommends that a single external review mechanism apply to the agency's decisions on early release applications, irrespective of the grounds on which the application was made.**

### **Recommendation 7 (paragraph 4.41)**

**The Committee recommends that the Government consider extending the criteria that govern early access to superannuation, given the evidence the**

**Committee has received of widespread dissatisfaction with the rigidity of the current grounds for release.**

**Recommendation 8 (paragraph 4.42)**

**The Committee recommends that where there is conclusive medical evidence of the existence of a prescribed terminal illness, claims be processed without delay.**

**Recommendation 9 (paragraph 4.52)**

**The Committee recommends that trustees be required by law to release funds within a specified time of receiving notification of authorisation by the relevant government agency with responsibility for administering claims for the early release of superannuation benefits.**

## ABBREVIATIONS

AFFA	Department of Agriculture, Fisheries and Forestry - Australia
AIST	Australian Institute of Superannuation Trustees
APRA	Australian Prudential Regulation Authority
ASFA	Association of Superannuation Funds of Australia
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
FPA	Financial Planning Association of Australia
IFSA	Investment & Financial Services Association Ltd
ISC	Insurance and Superannuation Commissioner
MIESF	Meat Industry Employees' Superannuation Fund Pty Ltd
MND	Motor Neurone Disease
SCOA	Superannuated Commonwealth Officers' Association (Federal Council) Inc
SIS Act	<i>Superannuation Industry (Supervision) Act 1993 (Cwlth)</i>
SIS Regulations	Superannuation Industry (Supervision) Regulations 1994
SISFA	Small Independent Superannuation Funds Association Ltd
Tribunal	Superannuation Complaints Tribunal



# CHAPTER 1

## THE INQUIRY

### Background to the inquiry

1.1 Superannuation is a form of long term saving and investing which aims to provide funds for people to use in their retirement. Since 1992 when employers became required by legislation to pay a minimum level of superannuation for their employees,<sup>1</sup> there has been significant growth in both the number of superannuation entities and the amount of money contributed by employers and employees in Australia.<sup>2</sup>

1.2 Because the purpose of superannuation is to provide funds in retirement, superannuation fund members are generally prevented from accessing their preserved benefits until retirement age.<sup>3</sup> However, access to some of the preserved funds is currently allowed on strictly limited grounds before retirement.

1.3 On 27 August 2001, the then Assistant Treasurer, Senator The Hon. Rod Kemp, wrote to the Committee, asking it to consider examining the early access rules. The Assistant Treasurer noted that the current rules had been in place for a number of years, and referred to the difficult nature of many of the applications for early release as well as continuing public interest in the issue.

1.4 On 24 September 2001 the Senate gave the following terms of reference to the Committee:

That the Committee assess and report on the effectiveness and efficiency of the current rules governing early access to superannuation benefits on existing compassionate and severe financial hardship grounds.

1.5 The Committee was asked to report by 31 January 2002.

### The Committee

1.6 The current Committee was established by a Senate resolution on 22 September 1999 to take effect from 11 October 1999. The Committee's terms of

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1 By virtue of the *Superannuation Guarantee (Administration) Act 1992* and the *Superannuation Guarantee Charge Act 1992*. Prior to that time, some industrial awards required employer contributions to superannuation.

2 Currently there are about 220 000 superannuation funds in Australia with assets of approximately \$500 billion. The vast majority of these are small self-managed superannuation funds with less than five members.

3 The rules on early access apply both to superannuation funds regulated by the Australian Prudential Regulation Authority (APRA) and the self-managed funds regulated by the Australian Taxation Office (ATO).

reference include inquiring into matters pertaining to superannuation and financial services, as referred to it by the Senate.

1.7 One of the terms of reference which the Senate gave the Committee was to inquire into prudential supervision and consumer protection for superannuation, banking and financial services. The Committee released three reports on these matters in August and September 2001.<sup>4</sup> While the early release of superannuation benefits was one of many topics that were raised in submissions, the Committee focussed its inquiry at that stage on major prudential supervision issues, and noted that it would monitor the issue of early release.<sup>5</sup>

### **Conduct of the inquiry**

1.8 Because of the lead up to the federal election (held on 10 November 2001), the Committee decided not to advertise the inquiry or invite submissions at the time of receiving the terms of reference. In order to assist members of the public, superannuation funds and relevant organisations to focus their submissions on relevant issues, the Committee resolved to prepare and circulate a Discussion Paper for comment after the election had been held.

1.9 The Discussion Paper was issued on 16 November 2001 and submissions were sought by 7 December 2001. A list of submissions the Committee received is at Appendix 1.

1.10 A public hearing was held in Melbourne on 13 December 2001. Witnesses at that hearing are listed in Appendix 2 and exhibits are listed at Appendix 3. A list of the Committee's reports is at Appendix 4.

1.11 Because of the very limited timeframe, the Committee has been unable to explore in depth all of the issues raised. However, the report concentrates on key themes emerging from the submissions and in the hearing, and discusses other issues where relevant.

### **Structure of the report**

1.12 Chapter 2 outlines the current provisions on early release of superannuation benefits and considers the threshold question of whether any early release should be available.

1.13 Chapter 3 discusses the main issues which arose during the inquiry, including the possible need for greater consistency across funds and increased centralisation of the administration of all early release payments.

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4 Senate Select Committee on Superannuation and Financial Services *Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services: First Report*, August 2001; *Second Report – Some Case Studies*, August 2001; *Third Report – Auditing of Superannuation Funds*, September 2001.

5 *First Report*, pp. 109-110.



1.14 Chapter 4 considers other key issues.

### **Acknowledgments**

1.15 The Committee thanks those individuals, superannuation funds, industry groups and other organisations who made submissions in the very short time available, as well as those who gave evidence at the public hearing. The Committee also gratefully acknowledges the assistance given by officers of the Committee Secretariat, particularly the inquiry officer Louise Gell, and other officers of the Senate Committee Office.



## CHAPTER 2

### THE GROUNDS FOR EARLY RELEASE

2.1 This chapter outlines the background to the current rules on early release of superannuation benefits and considers the threshold question of whether any early release should be available at all.

#### **How superannuation funds are regulated**

2.2 The superannuation industry is regulated by the offer of significant tax concessions to those entities which comply with the *Superannuation Industry (Supervision) Act 1993* (the SIS Act).<sup>1</sup>

2.3 Under the SIS Act, the sole purpose of a superannuation fund must be the provision of benefits for members on retirement, on reaching the ‘preservation age’ or on the member’s death.<sup>2</sup> Preservation age is between 55 and 60 years of age, depending on a person’s date of birth.<sup>3</sup>

2.4 A member of a fund may have three types of benefits: preserved, restricted non-preserved and unrestricted non-preserved. Over the last decade, increasing proportions of superannuation benefits have fallen into the preserved category. All contributions made since 1 July 1999 by members and employers and all fund earnings must be preserved. Preserved benefits cannot be accessed until the person has reached the preservation age and has permanently retired from the workforce.<sup>4</sup>

2.5 However, in some strictly limited circumstances, a member’s preserved benefits may be released before preservation age. These circumstances are outlined below.

#### **Grounds for early release of benefits**

2.6 Until 1997, the former Insurance and Superannuation Commission (ISC) had a broad discretion to administer the early release of benefits on severe financial hardship or compassionate grounds.

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1 Superannuation ‘entities’ under the SIS Act are regulated superannuation funds, approved deposit funds and pooled superannuation trusts (s. 10). This report refers primarily to superannuation funds.

2 SIS Act, s. 62.

3 SIS Regulation, Reg 6.01. Until 30 June 1998 the preservation age was 55 years of age for all people. It remains 55 for those people born before 1 July 1960, and increases on a sliding scale to 60 years for those born after 30 June 1964.

4 Only unrestricted non-preserved benefits may be cashed by the member at any time. Restricted non-preserved benefits do not have to be preserved until retirement, but are generally payable only on termination of employment with the contributing employer.

2.7 In 1997 the Government announced that the arrangements for early release would be reformed to ‘tighten and streamline’ the administration of benefits.<sup>5</sup> The ISC’s discretionary administration was replaced with an ‘objective test’ to be administered by fund trustees in the case of severe financial hardship, subject to the fund’s governing rules, and defined criteria to be administered by the ISC in relation to compassionate grounds.<sup>6</sup> (When APRA was created with effect from 1 July 1998, it assumed the ISC’s responsibilities in relation to applications on compassionate grounds.)

2.8 Thus there are currently two main ways in which a person may be able to access his or her superannuation benefits before reaching the preservation age:

- applying to the fund’s trustee on the grounds of severe financial hardship; or
- applying to APRA for release on compassionate grounds.

2.9 These grounds were discussed in detail in the Committee’s Discussion Paper and are summarised below.

### **Severe financial hardship**

2.10 A person is regarded as being in severe financial hardship if the fund’s trustee is satisfied that the person:

- has been receiving Commonwealth income support payments for a continuous period of at least 26 weeks, was still receiving the benefits on the date of submitting written evidence from the relevant Commonwealth agency and is unable to meet reasonable and immediate family living expenses;<sup>7</sup> or
- after reaching preservation age, has been receiving Commonwealth income support payments for a cumulative period of at least 39 weeks, and was not gainfully employed on the date of application.<sup>8</sup>

2.11 Similar provisions apply to Retirement Savings Account (RSA) providers.<sup>9</sup>

2.12 Commonwealth income support payments<sup>10</sup> include:

- income support supplements;<sup>11</sup>

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5 Explanatory Statement to the Superannuation Industry (Supervision) Regulations (Amendment) 1997 No. 152, issued by the authority of the Assistant Treasurer.

6 *ibid.*

7 SIS Regulation, reg 6.01(5)(a).

8 Reg 6.01(5)(b).

9 Reg 4.01(5). RSAs are accounts or policies offered by banks and other financial institutions approved by APRA as a low cost, low risk alternative to the trust fund structure. They are aimed particularly at people with low levels of superannuation benefits or with transient employment patterns.

10 Reg 6.01(2), referring to payments as defined in the *Social Security Act 1991*, s. 23.

- a service or social security pension;<sup>12</sup> or
- a social security benefit<sup>13</sup> other than Austudy or youth allowance;

and, from 1 January 1998:

- drought relief payments or exceptional circumstances relief payments under the *Farm Household Support Act 1992*; or
- salary or wages under the Community Development Employment Projects Scheme.

*The meaning of 'unable to meet reasonable and immediate family living expenses'*

2.13 Essentially, this expression means that the person's income is insufficient to meet his or her daily living expenses and that the person's assets (excluding the family home from consideration) could not reasonably and realistically be sold or used to cover the gap. If the person has a family, the family's combined resources are considered.

2.14 APRA has produced a set of guidelines to assist trustees in making determinations under this heading.<sup>14</sup> Those guidelines do not have the force of law, but are intended to assist trustees in their duties. The guidelines note in relation to considering the family's resources:

Some trustees may consider that a member should not be forcing his/her dependants to contribute any income they derive to satisfy debts incurred by the member. However, for the purposes of determining whether the subjective test is satisfied, then that family's combined resources and outgoings should be considered. To make assessments without regard to the whole family's position could lead to unjust decisions being made, involving either unjustified release or unjustified non-release.<sup>15</sup>

2.15 It should be remembered that people who have reached the preservation age and have been on income support payments for at least 39 weeks do not have to meet this test, as the alternative second ground for release (as set out in paragraph 2.10) can be applied.

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11 Under Part IIIA of the *Veterans' Entitlements Act 1986*.

12 Such as an age pension, disability support pension, sole parent pension or carer payment.

13 Such as a Newstart allowance, widow allowance, sickness allowance, partner allowance or special benefit.

14 *APRA Guidelines for Trustees: Early Release of Superannuation Benefits*, July 1999. The guidelines are available from APRA's website at <http://www.apra.gov.au>.

15 *Guidelines for Trustees*, para 18.

### *Trustees must develop flexible rules*

2.16 The Superannuation Complaints Tribunal may review a trustee's determination on financial hardship and may vary the decision or substitute its own decision where it is not satisfied that the trustee's decision was fair and reasonable in the circumstances.

2.17 A recent Tribunal decision overturned a trustee's decision not to grant early release of benefits and emphasised the need for trustees to develop and apply flexible rules in their determinations.<sup>16</sup>

### *Limits on the maximum amount payable*

2.18 There are limits on the amount that can be paid to a person who satisfies the first ground of the severe financial hardship test (that is, he or she has been receiving Commonwealth income support payments for a continuous period of at least 26 weeks). In each 12 month period a single lump sum of not less than \$1,000<sup>17</sup> and not more than \$10,000 may be paid.

2.19 APRA's guidelines for trustees note that 'for administrative efficiency and convenience', a trustee may decide to release an amount sufficient to cover the full 12 months, or a shorter period if the trustee considered that the person's financial circumstances might improve during that time.

2.20 Where a person is taken to be in severe financial hardship under the second ground (that is, he or she has reached retiring age plus at least 39 weeks), there is no upper limit on the amount that can be released.<sup>18</sup>

### **Compassionate grounds**

2.21 For a person to be granted benefits on compassionate grounds, he or she must satisfy APRA that:

- the money is to pay for prescribed expenses; and
- he or she would not otherwise have the financial capacity to meet those expenses.<sup>19</sup>

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16 D01-02\012, 16 July 2001. The complainant had claimed she was unable to meet the cost of various house repairs required for the safety of her young son, including replacing perimeter fences and rewiring a filter and pump for an above-ground swimming pool. The trustee rejected the claim on the basis of its published policy which stated that property maintenance was not viewed as day to day living expenses for 'extreme' financial hardship claims. However, the Tribunal found that the complainant qualified as suffering from severe financial hardship.

17 Except if the amount of the person's preserved benefits and restricted non-preserved benefits is less than that amount.

18 SIS Regulation, Schedule 1.

19 Reg. 6.19A(2).

2.22 Prescribed expenses are:

- medical treatment or medical transport for the person or the person's dependant;
- palliative care in the case of the impending death of the person or the person's dependant;
- expenses associated with a dependant's death, funeral or burial;
- where the person is severely disabled, payments to modify the person's home or vehicle; or
- payment on a loan to prevent foreclosure of a mortgage on the person's principal place of residence.<sup>20</sup>

2.23 APRA also has a qualified discretion to approve cases that do not strictly satisfy these criteria but are consistent with them.<sup>21</sup> Further details on each of those grounds were spelt out in the Committee's Discussion Paper.

2.24 The maximum amount that can be released on compassionate grounds, other than in the case of mortgage payments, is a single lump sum determined by APRA to be 'reasonably required', taking into account the ground of release and the person's financial capacity. The maximum amount that may be released to cover a mortgage is three months' repayments under the mortgage and 12 months' interest on the outstanding balance of the loan. This amount can be released every 12 months.<sup>22</sup>

### **Other grounds for early payment**

2.25 In addition to early release on severe financial hardship and compassionate grounds, there are several other bases on which payment of benefits is available prior to retirement. They are:

- permanent incapacity for employment;
- temporary incapacity for employment;
- permanent departure from Australia prior to 1 July 1998; and
- the amount of preserved benefits being less than \$200 on termination of employment.

2.26 However, because these matters are not addressed by the Committee's terms of reference, the Committee did not consider them in this inquiry.

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20 Reg 6.19A.

21 Reg. 6.19A(1)(f).

22 SIS Regulation, Schedule 1.

**The threshold question: should there be any early release of benefits?**

2.27 As has been mentioned, the aim of superannuation is to provide for income during retirement, as an alternative to, or supplementary to, government income support through the age pension or other benefit. As such, the current law seeks to ensure that members are not able to access either their own superannuation contributions or the contributions made by their employers until they have reached the preservation age and have permanently retired from the workforce.<sup>23</sup>

2.28 The current exceptions that allow for early release in limited circumstances thus represent a compromise between prohibiting any access to benefits before a person's preservation age, and abandoning the principle of preservation of benefits until retirement. The current criteria will not meet every individual's circumstances. Where benefits are made available, that needs to be done in the most effective and efficient way possible.

2.29 In its Discussion Paper, the Committee noted that the current provisions have attracted conflicting criticism. On one hand, particularly in the context of the policy of including superannuation assets in the social security means test, there has been criticism that the provisions aim to ensure that people in their 50s who are unemployed but still seeking work use all assets at their disposal to support themselves rather than relying on Commonwealth income support payments. The former Select Committee on Superannuation had expressed reservations about the Government's policy on including superannuation assets in the social security means test,<sup>24</sup> and this Committee was pleased to note the change in policy in the 2001 Budget for people aged 55 years and over. Others have suggested that the early access rules are too restrictive, in that people who fall outside the current criteria may suffer severe hardship but not be eligible for any relief. Some, however, have argued that the administration of the severe financial hardship provisions is costly and that the system is open to abuse.

2.30 In 1997 the former Senate Select Committee on Superannuation considered the changes to the rules.<sup>25</sup> That Committee emphasised its concern about the effect on the integrity of the superannuation system of the previously unfettered discretion on early release of benefits, and concluded that the rules on financial hardship applying until that time had been 'leading to an unacceptably high level of leakage in the superannuation system'. However, the Committee cautioned that the new rules

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23 Section 62 of the SIS Act requires regulated superannuation funds to be maintained for one or more of the listed core purposes to this effect, plus designated ancillary purposes.

24 Senate Select Committee on Superannuation *Provisions of the Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996 – Schedule 1*, November 1996.

25 Senate Select Committee on Superannuation *Super – Restrictions on Early Access: Small Superannuation Accounts Amendment Bill 1997 and related terms of reference*, September 1997. The Committee considered similar early release arrangements applying to monies held in the Superannuation Holding Accounts Reserve, as well as the early access rules generally.



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proposed by the Government may have been an over-reaction that had not been fully researched.<sup>26</sup>

2.31 One of the key questions on which the Discussion Paper sought comment was whether the current system achieved the right balance.

*Evidence to the Committee*

2.32 Most submissions the Committee received argued that early release should not be made too easily available because of the principle of preservation of funds until retirement. However, they agreed that benefits should be available in limited circumstances where there were genuine cases of hardship. Only one submission opposed early release on any grounds, on the basis that its availability impaired the principle of preservation.<sup>27</sup>

2.33 The Superannuated Commonwealth Officers' Association (Federal Council) Inc. (SCOA) gave a response that typified those the Committee received:

As a general principle, SCOA believes there should not be an unfettered discretion on early release of superannuation benefits, as this would undermine the objective of superannuation, which is to encourage people to save to support themselves in retirement. We therefore support the policy of access to the monies being 'preserved' until retirement age. This goes some way towards redressing the deplorable level of private savings in Australia and helps reduce dependency on age pension outlays in later years.

... Early access provisions are not intended to fund major economic decisions throughout the working life of a fund member. However, such provisions are nonetheless needed within the preservation rules to cover abnormal and urgent requirements that arise and have a major bearing on the economic welfare of a contributor to a fund.<sup>28</sup>

2.34 NSP Buck argued that:

... superannuation savings should not be eroded in circumstances where the social security system ought properly to step in to cater for people in need. Any move toward what ASFA has described as privatisation of social

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26 *ibid*, p. 27. The Committee recommended some modifications to the Government proposals, while supporting many of the reforms. In particular, the Committee recommended that the former ISC should administer the severe financial hardship provisions rather than trustees (Recommendation 6.6).

27 Australian Council of Public Sector Retirees Submission No. 5, p. 1. The submission argued that military retirees and superannuants should be considered separately because of the low compulsory retiring age. Two further submissions (HortSuper Submission No. 17, p.1; SMF Funds Management Ltd Submission No. 30, p. 2) suggested that early release should not be available on severe financial hardship grounds, but only on compassionate grounds, although those grounds could be extended in some ways.

28 SCOA Submission No. 29, pp. 1-2.

security by stealth is not appropriate in an environment where provisions for retirement income are arguably already deficient.<sup>29</sup>

2.35 However, NSP Buck acknowledged that early release was likely to continue to be necessary:

(u)nless social security for those in need is expanded to allow for lump sum emergency relief ... In some instances early release of benefits may be the only socially responsible solution.<sup>30</sup>

2.36 Similarly, Ms Philippa Smith, Chief Executive Officer of ASFA, argued that the policy on early release needed to be considered in the light of other assistance available to people in emergency financial need:

The government, I think, needs to make a decision as to whether it wants superannuation to be used for these types of purposes. If it does, we will not be meeting our initial objective for retirement income. If it wants to expand what the money is being used for, it may need to consider increasing the level of savings through superannuation to meet not only retirement income purposes but also some of these other life purposes that are happening.

Separate to those rules, the policy objective around superannuation is that the message needs to be clearer: that the purpose for this saving is retirement income. Because these [severe financial] hardship cases really are all social security claims — they are all people that have been on pensions or benefits for 26 weeks or more — clearly, the arrangements around that social security are not meeting quite common needs.<sup>31</sup>

2.37 ASFA stressed that policy-makers needed to consider the adequacy of other sources of assistance to people in short-term financial need.<sup>32</sup> ASFA provided the Committee with some information on the United Kingdom scheme, where the government makes interest-free loans or grants available to people in such circumstances.<sup>33</sup>

2.38 SCOA warned that the demand for early release was likely to increase:

... with the growing trend to part-time, casual and less secure employment in the labour market where low income earning individuals may not be able

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29 Ms Marie Sullivan, Hansard, p. 53.

30 NSP Buck Submission No. 23, p. 4.

31 Hansard, p. 35.

32 Hansard, pp. 34-35.

33 There are Crisis Loans for those people in emergency situations, Budgeting Loans for those people on income support for at least 26 weeks who need help to meet living and other expenses, and Community Care Grants for those on income support and in defined circumstances. While the loans need to be repaid, the grants do not. More information is available on the Department of Work and Pensions' website at <http://www.dwp.gov.uk>.

to build up a sufficient safety net through their normal savings. The gradual increase in the level of ‘preservation’ age will also impact.<sup>34</sup>

*Public perception about early access*

2.39 Numerous submissions referred to the perception of many fund members that superannuation benefits were their money, to which they should be able to have access to pay off debts when required.

2.40 A submission from superannuation fund Cbus described the negative impact this perception had on funds:

This creates for superannuation funds the burden of constant education of members about preservation and the long-term nature of superannuation. The perception amongst members when confronted with the rules governing the release of benefits is that it is the Fund itself who makes the rules, there is limited understanding that the Fund has little discretion in release benefits. This leads to complaints, threats and abuse of administration staff by members who do not understand the fund cannot release their money now.<sup>35</sup>

2.41 Cbus called for the government to improve public awareness:

The government needs as it did with the commencement of compulsory superannuation to educate the public about preservation and the purpose of superannuation not as an immediate benefit but as a benefit to be accessed when they retire or can no longer work ... This is an issue that will only increase as superannuation accounts grow.<sup>36</sup>

2.42 HortSuper also called for much greater awareness of the principles of superannuation and preservation, stating that a major education program was needed.<sup>37</sup>

2.43 The AIST suggested that public misconceptions could be overcome if the government were to ‘provide a statement supporting the preservation of super as part of the Government’s Income & Retirement Policy’. This statement should be incorporated in both the document provided by Centrelink to fund members seeking to apply to their funds on the grounds of severe financial hardship, and APRA’s application for early release on compassionate grounds.<sup>38</sup> ASFA made a similar suggestion about including a statement on all early release material about the

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34 ASFA Submission No. 24, pp. 13-14.

35 Cbus Submission No. 11, p. 1

36 Cbus Submission No. 11, p. 1.

37 HortSuper Submission No. 17, p.1.

38 AIST Submission No. 5, p.3.

‘fundamental premise’ of superannuation: ‘that of a long term savings plan with a long term objective of providing better living standards in retirement’.<sup>39</sup>

2.44 As one fund quoted by ASFA suggested:

... members should be made more aware that they are in ‘retirement’ funds more so than superannuation funds.<sup>40</sup>

2.45 ASFA’s submission also cautioned:

... the expansion of circumstances for early release and the development of an expectation that it is a *right* will erode the principle of preservation and the purpose of super.<sup>41</sup>

2.46 Another superannuation fund, UniSuper, offered a different perspective on the need to improve education of members, stating:

... early release should be seen as a last resort option and not a source of quick cash in difficult periods, which is the case with the current requirements. This requires education of members on the potential loss of their retirement benefit ... It is our experience that members who do access their superannuation balance for financial hardship do not understand the long-term implications on their retirement savings.<sup>42</sup>

2.47 UniSuper suggested that better education of the public would be valuable in minimising the damaging impact of early withdrawals on members’ retirement income. The Australian Securities and Investments Commission (ASIC), which in March 2001 issued a consumer alert warning the public about financial advisors who offered help in getting easy access to superannuation funds, also noted that better education would help to protect members from scams.<sup>43</sup>

#### *Committee view*

2.48 The Committee notes the strong support for the view that while early release erodes the principle of preservation of superannuation funds for retirement, in limited circumstances its use may be justified to alleviate genuine financial hardship. As will be emphasised in this report, the Committee is concerned to ensure that access to early release is available in certain cases, but that access should not be made too easy because of the danger of eroding retirement incomes. The Committee also observes that the distinction between the grounds of severe financial hardship and

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39 ASFA Submission No. 24, p.15.

40 *ibid.*

41 ASFA Submission No. 24, pp. 13-14.

42 UniSuper Submission No. 13, p. 4.

43 ASIC Submission No. 31, p.3.

compassionate grounds may need to be reviewed in favour of one common set of criteria, covering both sorts of circumstances.

2.49 The Committee also believes that the availability of early access to superannuation benefits needs to be considered in the broader context of the adequacy of social support for people in severe financial need. Access to superannuation savings should not be seen to be a ‘port of first call’ for those who are experiencing financial hardship, as the release of savings will result in significantly fewer funds on retirement. The Committee supports better education of fund members about the long-term benefits of superannuation savings and the damaging impact of early withdrawals on retirement income.

2.50 The Committee considers that there would be merit in reviewing the adequacy of current social security measures to provide relief in cases of severe financial hardship as part of an overall review of the Government’s retirement incomes policy.

### **Recommendation 1**

**2.51 The Committee recommends that the Government review the adequacy of current social security measures to provide relief in cases of severe financial hardship as part of an overall review of the Government’s retirement incomes policy.**



## **CHAPTER 3**

### **MAIN ISSUES**

#### **Introduction**

3.1 This chapter considers the following key issues that arose in submissions and during the Committee's public hearing:

- How much money is released under the current rules and what is the impact on funds?
- Is consistency in the application of the rules by superannuation funds desirable?
- Is there a need for central record-keeping to ensure the integrity of records?
- Should there be a centralised system for administering release on the grounds of severe financial hardship as well as compassionate grounds?
- If so, who should have that function?

3.2 These issues are discussed in turn below.

#### **How much money is released?**

3.3 As was discussed in Chapter 2, one of the key reasons for the changes to the rules in 1997 was the increase during the 1990s in claims for early release, and concern over what appeared to be automatic approval by the former ISC of almost all claims.

3.4 The following table shows that between 1993/94 and 1996/97, the number of early release claims to the ISC more than doubled (although the total amount paid increased at a much lesser rate, from \$203 million in 1993/94 to \$254 million in 1996/97). Almost all claims (95 per cent in 1996/97) were approved in full or in part.

**Table 2.1 Early release applications to the ISC 1 July 1993 – 30 June 1997<sup>1</sup>**

	1993/94	1994/95	1995/96	1996-97*
Total number of applications	36 184	39 480	55 199	78 648
Per cent approved in full	72	82	84	87
Per cent approved in part	12	9	10	8
Per cent denied	16	9	7	5
Total amount released	\$203 m	\$223 m	\$249 m	\$254 m

\* Note: The figures given for 1996/97 were later revised in the ISC's *Annual Report 1996/97* (p. 73) to a total of 87,648 applications. The percentages approved and denied remained the same.

3.5 In 1997 the ISC's broad discretion to approve early release payments was replaced with two systems:

- fund trustees were to administer a more objective test in the case of severe financial hardship; and
- defined criteria were to be applied by the ISC in relation to compassionate grounds. In 1998 APRA assumed the responsibility to determine applications on compassionate grounds.

3.6 APRA provided the Committee with data on the outcome of applications made on compassionate grounds to the ISC and APRA after 1 July 1997, when the new rules came into effect. Those figures show that in the last two years APRA has approved about half of the applications made on compassionate grounds and that the average amount approved for payment is between \$5000 and \$6000.

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1 Evidence given by the ISC to the former Senate Select Committee on Superannuation *Super – Restrictions on Early Access*, September 1997, p. 24.



**Table 2.2 Compassionate ground applications considered by the ISC and APRA since 1 July 1997<sup>2</sup>**

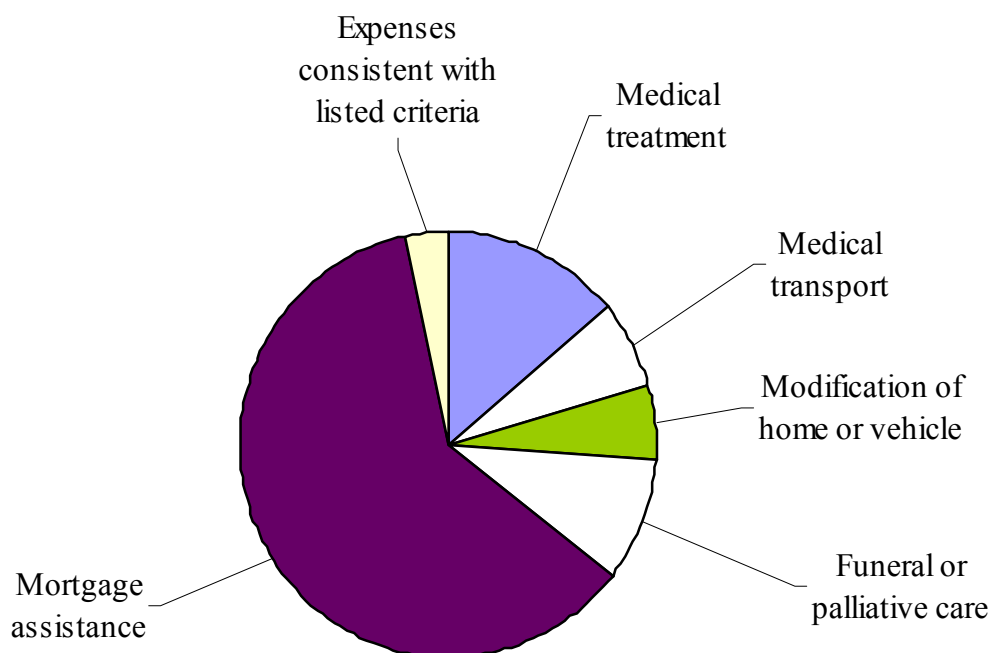
	<b>July – Dec 1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>Jan-Nov 2001</b>
Total number of applications	5 087	13 807	12 909	11 357	10 417
Per cent approved	31	32	40	54	52
Per cent denied	38	34	32	32	23
Other <sup>1</sup>	31	34	28	14	25
Total amount approved for release (\$m)	8.6	25.8	29.2	37.1	27.3
Average approved amount	\$5467	\$5763	\$5591	\$6077	\$5065

Notes to table:

1. 'Other' comprises applications which were not finalised because the applicant had been asked for further information and did not provide it, or because the matter did not proceed for other reasons, such as error or withdrawal by the applicant. APRA advised that while files used to be kept open where an applicant had been asked for more information, in recent years files have been closed about three months after an applicant has failed to respond to APRA's request for further information.

3.7 In relation to the purposes for which money was released on compassionate grounds, APRA provided the following breakdown of approvals for 2001. Most of the money (60 per cent of the total of \$27.3 million) was released for mortgage payments.

**Figure 2.1 APRA approvals by ground 1 January 2001 – 9 November 2001**



### *Severe financial hardship applications to superannuation funds*

3.8 No information is collated on the amount of money released by individual funds on the grounds of severe financial hardship, as funds are not required to report this information to APRA or any other body. Consequently, it is difficult to estimate how much money is released compared with the amount released under the old rules.

3.9 In order to gain some indication, the Committee's Discussion Paper asked funds to disclose how much money their trustees released on these grounds. Several funds and industry associations provided data in response.

3.10 A key submission was that from the Association of Superannuation Funds of Australia (ASFA), a peak industry body for superannuation funds. ASFA has 532 members estimated to be responsible for about \$420 billion of assets (about 80 per

cent of total superannuation funds under management). While ASFA could not provide comprehensive information for all its members, in part because of the short timeframe for this inquiry, a survey of its members provided results for 23 industry funds, accounting for around 15 per cent of total industry fund members. ASFA also obtained some information from other sectors, including retail, public sector and corporate superannuation funds.<sup>3</sup>

3.11 On the basis of these results, ASFA estimated aggregate hardship payments by superannuation funds in 2000/2001 to be approximately 76 500 payments, totalling \$320 million.<sup>4</sup> ASFA noted that the incidence of claims appeared to be lower in funds with a high proportion of members in employment (such as industry funds for non-government school teachers), higher in industry and retail funds, and higher in those funds with more casual or intermittent employees.<sup>5</sup> ASFA also noted that its estimate of the growth in claims ‘may be conservative’, stating as an example:

... one industry fund indicates that it had a 60% increase in the value of hardship benefits paid between calendar 1998 and estimated benefits in calendar 2001.<sup>6</sup>

3.12 ASFA estimated that the total claims approved for payment in 2000/01 by APRA on compassionate grounds in addition to individual funds on severe financial hardship grounds numbered 83 000. Those claims were worth approximately \$350 million.

3.13 The Committee also received submissions from some individual funds on the amount of money they released on the grounds of severe financial hardship. While the the experience of different funds varied according to factors such as their size and the industry from which their membership was drawn, most reported an increase in claims in recent years:

- AMP, which advised that it released a total of \$45 million in severe financial hardship claims in 2000/01, estimated that that the number of such claims it dealt with had increased by about 30 per cent since 1997.<sup>7</sup>
- NSP Buck estimated from its experience that for small superannuation funds ‘less than 1 per cent of claims from less than 1 per cent of members’ would relate to early release. As an example of a larger fund, one fund with about 31 000

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3 ASFA estimated that it had collected information in relation to about 35 per cent of retail fund members (other than those in Eligible Rollover Funds), 25 per cent of local government scheme members, 20 per cent of State public sector schemes and a ‘limited number’ of corporate funds (Submission No. 24, p.6).

4 ASFA Submission No. 24, p. 10.

5 *ibid*, p. 15. Of the total claims, ASFA estimated that industry funds paid 33,000 claims; retail funds 33,000 claims; public sector funds 10,000 claims; and corporate funds 500 claims (p. 10).

6 *ibid*, p. 18.

7 AMP Submission No. 35, p. 11.

members had 55 applications for early release in the current financial year, with anecdotal evidence suggesting an increase in claims over the past few years.<sup>8</sup>

- In a similar vein to NSP Buck, UniSuper stated that in 2000/01 it released \$565 000 on severe financial hardship grounds, representing less than 1 per cent of total benefit payments.<sup>9</sup> HortSuper also stated that the value of such payments did not exceed 2 per cent of total funds paid out or transferred.<sup>10</sup>
- By contrast, a much higher proportion of early release payments was reported by the Meat Industry Employees' Superannuation Fund Pty Ltd (MIESF). The fund noted that over the last three financial years, between 14 and 16 per cent of the fund's benefit payments had been made on severe financial hardship grounds (around 12 per cent of the total amount paid). This compared with 3 per cent and 9 per cent of total benefit payments for 1996/97 and 1997/98 respectively.<sup>11</sup>
- Tasplan reported that over the last three financial years, between approximately 10 and 13 per cent of total claims paid were on the grounds of severe financial hardship.<sup>12</sup>
- Cbus reported that in 2000/01, it paid out almost \$7.2 million for severe financial hardship, compared with \$5.1 million in 1999/2000 (an increase of 41 per cent). This increase was much higher than the increase in total benefits paid (\$167 million in 2000/01 compared with \$145 million in 1999/2000, an increase of only 15 per cent).<sup>13</sup>
- The Catholic Schools Superannuation Fund (WA) reported only 7 applications in 2000/01 for a total of just under \$30 000, equal to about 0.015 per cent of the fund's assets under management.<sup>14</sup>

### *Committee view*

3.14 It seems clear that one of the main purposes of the 1997 changes, namely to tighten the rules on early release in order to reduce the amount of money paid out by superannuation funds, has not been achieved. As noted above, ASFA estimated that 83 000 claims were approved for payment in 2000/01 by APRA and individual funds,

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8 NSP Buck Submission No. 23, p. 5.

9 UniSuper Submission No. 13, p. 5.

10 HortSuper Submission No. 17, p. 1.

11 MIESF Submission No. 19, p. 1.

12 Tasplan Submission No. 3, p. 5.

13 Cbus Submission No. 11, p. 2. Cbus is a large national industry superannuation fund with more than 324,000 members and 26,000 participating employers. Based on the figures supplied, the amounts paid out on severe financial hardship grounds appear to be 4.3 per cent of total benefits paid in 2000/01, up from 3.4 per cent in 1999/2000.

14 Catholic Schools Superannuation Fund (WA) Submission No. 2, p. 1.

to a value of approximately \$350 million. If these figures are accurate, there appears to have been no decrease in the total number of claims compared with the number approved by the former ISC (87,648 applications in 1996/97, of which the vast majority (95 per cent) were approved in whole or part). There has also been a significant increase in the total amount of monies released since that time, to an estimated total of \$320 million in 2000/01.

3.15 It must be remembered that to a certain extent the growth in the number of early release claims reflects the increase over the last decade in the number of people who have superannuation savings on which to draw. The increase may also reflect greater public awareness about superannuation generally and the early release provisions in particular. Nevertheless, the current system would not appear to be achieving the aims stated when it was established in 1997.

3.16 The Committee believes that a major impediment to sound policy-making in this area is the lack of comprehensive information on the number and type of claims, the proportion of applications approved by individual superannuation funds, the total amount of money released and general trends in early release payments.

3.17 Accordingly the Committee believes that data on all early release payments needs to be centrally collected, analysed and reported publicly. Who should be responsible for this activity will be considered in the context of other major policy issues discussed below.

## **Recommendation 2**

**3.18 The Committee recommends that information be collected annually on the total number, value and type of early release payments by superannuation funds, in order to allow for analysis of trends in those payments.**

### **Is consistency in the application of the early release rules desirable?**

3.19 When the changes to the rules were introduced in 1997, the release of benefits on the basis of severe financial hardship or compassionate grounds was still to be subject to the fund's governing rules.<sup>15</sup> That is, funds would have the discretion as to whether they would make such access available to their members.

3.20 While it appears on the basis of evidence before the Committee that most funds make early release monies available, not all do. One of the largest industry funds, REST, with over 1.1 million members, does not make release on severe financial hardship grounds available, although it does allow release on compassionate grounds.<sup>16</sup>

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15 Explanatory Statement to the Superannuation Industry (Supervision) Regulations (Amendment) 1997 No. 152, issued by the authority of the Assistant Treasurer.

16 ASFA Submission No. 24, p. 9.

3.21 Most submissions and witnesses to the inquiry argued that all funds should have the same rules on early release, in order to stop ‘fund-shopping’ and remove any commercial advantage one fund may have over another.<sup>17</sup> HortSuper commented:

The principle of preservation is somewhat impaired by the availability of early release, but is severely impaired by the considerable variation in the application of rules for early release – from approving nothing in the case of one very large fund, to approving everything without question as practised by one large bank fund.<sup>18</sup>

3.22 Some submissions referred to incidences of fund members transferring their money from other funds which did not provide early release, in order to be able to gain access.<sup>19</sup> APRA representative Mr Roger Brown confirmed in evidence to the Committee that some funds which did not provide early release were willing to roll members’ money over to other funds which would do so, thus appearing to defeat the intent of the rules.<sup>20</sup>

3.23 APRA also noted that small self-managed superannuation funds (that is, those with less than five members where all the members are trustees) were entitled to have early release provisions. Mr Brown referred to an ‘inherent conflict of interest’ for trustees in relation to their own applications for early release, which they would be highly unlikely to refuse.<sup>21</sup>

3.24 While APRA representatives expressed no view when questioned by the Committee on whether the same rules should apply to all funds,<sup>22</sup> Ms Helen Dyson, Vice President of the Australian Institute of Superannuation Trustees (AIST), stated that it was in the interests of all funds to have common rules ‘certainly in the choice of fund environment’. She recommended an amendment to the SIS Act to deem that such a provision be included in funds’ trust deeds, to avoid individual funds having to have their trust deeds amended.<sup>23</sup>

3.25 However, some contrary views were expressed on whether the same rules should apply to all funds. The Financial Planning Association of Australia (FPA) supported the existing provisions in order to ‘ensure that unique cases are dealt with

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17 Including SMF Funds Management Submission No. 30 p. 2; AIST Submission No. 5, p. 5; National Seniors Association Submission No. 22, p. 3; SCOA Submission No. 30, p. 1; MIESF Submission No. 19, p. 2.

18 HortSuper Submission No. 17, p. 1.

19 MIESF Submission No. 19, p. 2; ASFA Submission No. 24, p. 19; Tasplan Submission No. 3, p. 13.

20 Hansard, pp. 12-13.

21 Hansard, p. 7. Ms Philippa Smith, ASFA, agreed (Hansard, p. 34). In small self-managed superannuation funds with less than five members, all the members are trustees. Such funds form the vast majority of superannuation funds in Australia.

22 Hansard, p. 13.

23 Hansard, p. 46.

by individual funds'.<sup>24</sup> UniSuper argued that availability of early access should be optional because small funds may be disproportionately affected by the administrative costs of assessing claims. In addition, a fund's benefit design or funding position could limit its ability to release monies prior to a member's preservation date.<sup>25</sup> NSP Buck also noted that funds not directly subject to Commonwealth legislation and funds with defined benefit schemes 'would face the most challenges' if early access provisions were made compulsory.<sup>26</sup> ASFA stated that defined benefit funds would have difficulties in building into benefit structures a method of determining the value and impact of releasing money early. One fund consulted by ASFA had argued:

Should the releases be limited to vested benefits, or minimum benefits or the value of member contributions only? In any case, the structure (so as to not [a]ffect vested benefits) would require the running of debt accounts which adds an additional cost. For deferred benefits, where the benefit is crystallised, such releases are possible and the trustees do make such releases ...<sup>27</sup>

3.26 Nevertheless, ASFA noted that a 'consistent message' from the funds it consulted was that the rules should be the same across the industry.<sup>28</sup>

#### *Committee view*

3.27 The Committee notes the strong support from members of the superannuation industry for consistent rules on the availability of early release, at the very least in the case of funds other than defined benefit funds. Given that early release is available to small self-managed superannuation funds, where the trustees are hardly likely to refuse their own applications, the Committee considers that members of other funds should not be disadvantaged by being unable to gain similar access in cases of genuine financial hardship or on compassionate grounds. In addition, imposing the same criteria on each fund would help to prevent 'fund-shopping' in order to circumvent restrictions on access.

3.28 The Committee notes some concerns about the possible impact on defined benefit funds in terms of difficulties in determining the impact of releasing funds prior to retirement. However, with appropriate amendments to the trust deeds, the Committee sees no such difficulties for accumulation funds. The Committee supports in principle consistency of the rules across all funds, especially for accumulation funds. The Committee believes that the Government should examine how defined benefit funds, including the Commonwealth civilian and defence force funds, could

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24 FPA Submission No. 32, p. 3.

25 UniSuper Submission No. 13, p. 6.

26 NSP Buck Submission No. 23, p. 7.

27 ASFA Submission No. 24, p. 19.

28 Mr Robert Hodge, Hansard, p. 42.

make the early release of benefits available to those members to whom it is not currently available.

### **Recommendation 3**

**3.29 The Committee recommends that the rules governing early access to superannuation benefits be consistent for all accumulation funds.**

### **Recommendation 4**

**3.30 The Committee recommends that the Government examine how defined benefit funds, including the Commonwealth civilian and defence force funds, could make the early release of benefits available to those members to whom it is not currently available.**

#### **Is there a need for central record-keeping of claims?**

3.31 Several submissions, including those from NSP Buck,<sup>29</sup> AMP,<sup>30</sup> SMF Funds Management,<sup>31</sup> ASFA<sup>32</sup> and Tasplan<sup>33</sup>, noted that trustees were unable to check that an applicant was not claiming money on severe financial hardship grounds from more than one fund within the same twelve months, leaving the system open to abuse.

3.32 Mr Ian Griffiths, Executive Director of SMF Funds Management Ltd, told the Committee of his concern about possible misuse of the early release provisions by some fund members and the basis on which those concerns arose:

... we have seen situations where we assume that people took funds from one fund six months ago and then, all of a sudden, they are tackling ours. That comes by way of communication and their understanding of the process, and the way they question our staff in presenting their case. The level of education of a certain group of members seems to be quite high.<sup>34</sup>

3.33 UniSuper stated that its members were required to disclose whether money had been released to them by other funds, but that there was no way of checking the information supplied.<sup>35</sup> Submissions from two other funds<sup>36</sup> noted that they did not seek information from applicants about membership of other funds, with one of those funds suggesting that it might be worthwhile to consider whether a statutory

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29 NSP Buck, Submission No. 23, p. 9.

30 AMP, Submission No. 35, p. 13.

31 SMF Funds Management, Submission No. 30, p. 3.

32 ASFA Submission No. 24, p. 21.

33 Tasplan Submission No. 3, p. 6.

34 Hansard, pp. 64-65.

35 UniSuper, Submission No. 13, p. 6.

36 HortSuper Submission No. 17, p. 2; Catholic Schools Superannuation Fund (WA) Submission No. 2, p. 2.



declaration by an applicant on such matters should be made mandatory.<sup>37</sup> However, another fund told the Committee of evidence from its recent examination of applications that some statutory declarations were ‘incorrectly completed’,<sup>38</sup> throwing some doubt on the efficacy of that suggestion.

3.34 ASFA’s submission suggested that the problem could be overcome in one of two ways:

... It is arguable that the issue of members claiming from multiple funds and other associated issues such as which fund should process the claim could, in large part, be resolved through the use of a centralised claim processing authority.

Alternatively, the release of funds needs to be conditional upon an original letter or authentication from Centrelink that a claim is being sought from that fund only.<sup>39</sup>

3.35 Similarly, AMP supported administration of early release by a central agency because of the ‘clear and real potential’ for individuals to seek money from several funds.<sup>40</sup> UniSuper suggested that Centrelink could keep a register of applications for severe financial hardship.<sup>41</sup> At present, Centrelink does not keep records on the letters it supplies to applicants for the purpose of severe financial hardship applications.<sup>42</sup>

#### *Committee view*

3.36 The Committee considers that, while most applicants for early release will no doubt be in genuine financial hardship, the inability of trustees to check that fund members are not applying to more than one fund for early release is a real problem that should be addressed.

3.37 It is the Committee’s view that this problem could be resolved if a single agency were responsible for approving all early release claims, as is discussed below.

#### **Should there be a centralised system for administering all early release payments?**

3.38 During this inquiry, the Committee was interested to explore whether the new system by which trustees were responsible for severe financial hardship claims was working effectively. As mentioned in Chapter 2, the former Senate Select Committee

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37 Catholic Schools Superannuation Fund (WA) Submission No. 2, p. 2.

38 Mr Neil Cassidy, Tasplan, Hansard, p. 34.

39 ASFA Submission No. 24, pp. 21-22.

40 AMP Submission No. 35, p. 13.

41 UniSuper Submission No. 13, p. 6.

42 Correspondence from Centrelink 9 January 2002, p. 2. Centrelink advised that data is only kept on the total number of letters issued, ‘given the confirmation letters only have a 21 day validity period, and there is no follow-up action required’.

on Superannuation had cautioned that the new rules proposed in 1997 could have been an over-reaction to the ISC's 'understandable problems'.<sup>43</sup> That Committee recommended that the ISC rather than trustees should assess severe financial hardship claims.<sup>44</sup> However, this recommendation was not adopted.

3.39 Many submissions to this inquiry supported removing the responsibility from fund trustees, largely because of the burden imposed on trustees and the inconsistent approach taken by different funds. For example, Tasplan gave a list of reasons why the responsibility should be given to a central government agency such as Centrelink:

1. The rule imposing a single lump payment in any 12 month period would be more easily policed. This would overcome "double-dipping" that now occurs.
2. The cashing restriction of the maximum amount of \$10,000 released in each 12 month period, would be more manageable and policed. As the responsibility is currently with the superannuation funds it is impossible for them to detect if a member exceeds \$10,000 in any 12 [month] period as they could be members of multiple funds.
3. Costs and time associated with the administration of such claims by superannuation funds would be heavily reduced.
4. Centrelink would have access to a central register of claims to be able to meet their obligations to adjust income support payments, if applicable.
5. Consistency of claims assessment across all funds. Trustees of superannuation funds have the opportunity to develop flexible rules but this can lead to inconsistency of decisions within the fund and across all funds.
6. Overcome the shortfall of assessment skills that exist within superannuation funds.<sup>45</sup>

3.40 One industry superannuation fund, HortSuper, argued that 'it would be better if early release was not available at all, but that the rules for compassionate grounds be slightly enlarged and APRA make all determinations'.<sup>46</sup> ASFA<sup>47</sup> and SMF Funds Management Ltd<sup>48</sup> expressed similar views. APRA noted, however, its preference for a change in terminology from 'compassionate grounds', which it argued connoted a

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43 Senate Select Committee on Superannuation, *Super – Restrictions on Early Access*, September 1997, p. 27.

44 *ibid*, Recommendation 6.6.

45 Tasplan Submission No. 3, p. 3.

46 HortSuper Submission No. 17, p. 1.

47 Mr Robert Hodge, Hansard, p. 45.

48 SMF Funds Management Ltd Submission No. 30, p.2.

broad discretion and led to frustration and confusion amongst applicants, to the more neutral ‘specified grounds’.<sup>49</sup>

3.41 Other submissions, including those from SCOA<sup>50</sup> and AMP,<sup>51</sup> also supported a single central agency assessing all claims. By contrast, a submission from the Small Independent Superannuation Funds Association Ltd (SISFA) commented that the current division of responsibilities was to be preferred over any shift of responsibility to APRA or the ATO. However, SISFA gave no reasons for that view.<sup>52</sup>

#### *The administrative burden on funds*

3.42 One of the main criticisms by superannuation funds of the current system is the burden it places on their resources, particularly in the case of small funds. Tasplan told the Committee that because an estimated 15-20 per cent of its administration activity was being spent on processing claims for early release, the trustee had resolved in recent times that all claims that met the basic requirement would be paid without assessment. Tasplan argued that the current system would encourage other funds to take similar action and that:

Such policy will ultimately result in more claims and a higher incidence of “questionable” claims.<sup>53</sup>

3.43 ASFA also argued that there was a significant burden on funds:

Hardship claims tend to be relatively resource intensive. The application forms are complex, and the typical experience of funds is that most applications are incorrectly completed and/or do not include supporting documents. The applicants also tend to be stressed, and are not generally interested in rational explanations of the regulations and guidelines relating to the release of benefits or requests for more forms. Many applicants tend to be in reasonably dire circumstances, and they want what they see as their money straight away.<sup>54</sup>

3.44 ASFA commented that a consistent message from the funds it had surveyed was that ‘compared with total processing costs, the cost of processing hardship claims was out of proportion to both the number of claims made and the amount of the claim.’ Funds had told ASFA that it cost \$100-\$150 to process each claim, and ASFA had estimated a total cost to the superannuation industry of between \$8 million and \$12 million. This cost had to be borne by fund members.

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49 Ms Thea Rosenbaum, Hansard, p. 3.

50 SCOA Submission No. 29, p. 3.

51 AMP Submission No. 35, p. 7.

52 SISFA Submission No. 26, p.2.

53 Tasplan Submission No. 3, p. 4.

54 ASFA Submission No. 24, p. 16.

3.45 Criticism of the administrative burden on funds was also offered by SMF Funds Management Ltd,<sup>55</sup> HortSuper<sup>56</sup> and Cbus.<sup>57</sup> However, some other funds which either had a lower incidence of claims or economies of scale by virtue of their size stated that the burden was not unduly onerous.<sup>58</sup>

*Trustees may not have the requisite skills*

3.46 Several witnesses and submissions also emphasised that trustees were not necessarily sufficiently skilled to decide hardship claims.<sup>59</sup> As one fund noted:

Trustees are not financial planners and members become extremely distressed at the intrusion in their lives. It is distressing for trustee staff as well.<sup>60</sup>

3.47 While the current rules include an objective test, in that documentary evidence of Commonwealth income support payments is required, there is a second subjective test. Trustees must be satisfied, in the case of applicants who have not reached preservation age, that they are unable to meet reasonable and immediate living expenses.

3.48 APRA has developed guidelines to assist trustees in making those decisions but their application is not mandatory. Most submissions which commented on this point commented favourably on APRA's guidelines, while noting that it was appropriate for trustees to retain some discretion.<sup>61</sup> However, as the Discussion Paper noted, the Superannuation Complaints Tribunal has recently emphasised that trustees must not develop inflexible policies which exclude certain matters from consideration, but must consider applications on a case by case basis.<sup>62</sup> AIST noted that it currently provided specialist training to assist trustees in assessing death benefit and disability

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55 SMF Funds Management Ltd Submission No. 30, p. 3.

56 HortSuper, Submission No. 17, p.1. HortSuper's Administrators estimated that dealing with requests occupied between 7½ and 10 per cent of administration costs.

57 Cbus Submission No. 11, p. 1.

58 Including NSP Buck, Submission No. 23, p. 6, which stated that there was a relatively low level of claims but acknowledged that each claim could require 'considerable administration' as many applicants were distraught and unable to concentrate on the required paperwork; and UniSuper Submission No. 13, p. 5, which estimated that the average time spent on a claim was 2½ hours and that this was not seen as a burden.

59 Tasplan Submission No. 3, pp. 2, 5-6; NSP Buck Submission No. 23, p. 7; Combined Pensioners and Superannuants Association of NSW Submission No. 28, p. 4.

60 ASFA Submission No. 24, p. 18, referring to comments by one of its member funds.

61 Including SMF Funds Management Ltd Submission No. 30, p. 3; SCOA Submission No. 29, p. 4; ASFA Submission No. 24, p. 22; NSP Buck Submission No. 23, p. 9.

62 Discussion Paper, pp. 11-12.

claims, and that courses on assessing severe financial hardship claims could also be offered if required.<sup>63</sup>

3.49 ASFA's submission stated:

It is questionable whether the trustee has the authority to require detailed information about other family members' circumstances, purely for the purpose of determining a matter that relates to one specific person. It is also questionable whether trustees have the skills necessary to undertake an evaluation of this nature ... What is required ... is a centralised agency equipped to assist these people with alternative advice and life skills training to resolve not just the immediate problem but the underlying causes.<sup>64</sup>

3.50 ASFA referred to a 'general consensus' that either more prescriptive tests for financial hardship claims were needed, or the system should be administered by a central agency.

#### *Committee view*

3.51 The Committee found strong evidence of support for taking the responsibility from trustees of individual funds and giving it to a central government agency. This would help to ensure that expertise is developed, that a consistent approach is applied and that certain economies of scale may be achieved, at least compared with smaller funds which may find the administration of early release claims overly burdensome.

3.52 Which agency should have the responsibility is discussed below.

#### **Which agency should have the responsibility for administering claims?**

3.53 APRA argued there were several benefits in Centrelink assuming responsibility for early release:<sup>65</sup>

- Applicants would be much better served by being able to obtain information about and have their applications processed through a distributed infrastructure such as Centrelink. Both Centrelink and the ATO have the infrastructure and available staff to deal with members of the public.
- Applications on the grounds of financial hardship require documentary evidence from Centrelink to confirm that the applicant is in receipt of Commonwealth Income Support Payments; and
- Applicants on compassionate grounds are often in circumstances where a 'one-stop shop' with information about other types of assistance would be extremely

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63 AIST Submission No. 4, p.7.

64 ASFA Submission No. 24, p. 18.

65 APRA Submission No. 10, pp. 11-13.

useful. Many of these applicants require financial or emotional counselling, or other advice on the best avenues of help for them and their families.

3.54 APRA also submitted:

There are strong arguments that the activity is irrelevant to the core prudential supervisory function of APRA, and may fit better with the social welfare charter of Centrelink, or the revenue protection function of the ATO.<sup>66</sup>

3.55 In particular, APRA pointed to its establishing legislation, which states that APRA's purpose is to regulate bodies in the financial sector and developing policy to be applied in that role.<sup>67</sup> APRA noted that the early release function 'is the only one where APRA interacts directly with members of the public rather than financial institutions'.<sup>68</sup>

3.56 APRA advised the Committee that it had previously raised the issue of transferring this responsibility to Centrelink. In 1998 APRA had 'opened negotiations' with Centrelink for that agency to administer the early release provisions, 'preferably with effect from the end of the calendar year'. APRA had received legal advice that such an arrangement would be lawful if the relevant decision-makers were either seconded to APRA or treated as consultants under the APRA Act.<sup>69</sup> However, APRA noted that 'with[out] the full support of Treasury to change the legislation at that stage, and without considerable cost saving with Centrelink, the issue was not progressed'.<sup>70</sup>

3.57 AMP supported determination of early access applications by a single government agency and noted:

Centrelink's expertise in service delivery, coupled with its extensive delivery network, marks it as a logical interface for consideration of individual claims for early access to superannuation ... In keeping with Centrelink's aim of being a one-stop shop for Government services to the community, the task of assessing the essentially welfare benefits of early superannuation access is consistent with the Charter of Centrelink.<sup>71</sup>

3.58 AMP argued that if Centrelink assumed the role, the overall cost of the scheme would be reduced because of:

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66 APRA Submission No. 10, p. 11.

67 *Australian Prudential Regulation Authority 1998*, s. 8.

68 APRA Submission No. 10, p. 11.

69 APRA explained that the reason was that the SIS Regulations (reg 6.19A) specifically referred to the person making application 'to the Regulator', and Centrelink had no defined role under the SIS Act.

70 APRA Submission No. 10, p. 12.

71 AMP Submission No. 35, p. 7. SMF Funds Management Ltd (Submission No. 30, p.3) also supported assessment of claims by the agency providing income support.

... the specialisation of skills already present among Centrelink staff; the depth of information Centrelink holds in connection with the provision of benefits; the strength of its internal review procedures and the elimination of the need for all superannuation funds to establish, maintain and administer access rules, create and implement decision review procedures and, in the extreme cases, defend legal review/challenge.<sup>72</sup>

3.59 The Committee sought Centrelink's views on a possible shift of responsibility to that agency. In correspondence to the Committee dated 9 January 2002, Centrelink responded that it was 'well positioned' to assume the responsibility, subject to suitable funding, and noted:

Centrelink's national presence, through its broad service delivery network of Customer Service Centres and Call Centres, with access to social workers, specialist staff, and referrals to community support groups, currently provides assistance to individuals and families who may be distressed because of personal circumstances or financial hardship.

#### *Review mechanisms*

3.60 Another issue which arose was that under the current system, different bodies are responsible for reviewing decisions on severe financial hardship and compassionate grounds.

#### Review of APRA's decisions

3.61 The Committee was advised that as APRA's decisions are not reviewable decisions for the purposes of the SIS Act, no appeal may be made to the Administrative Appeals Tribunal.<sup>73</sup> However, the Commonwealth Ombudsman can investigate APRA's decisions to determine if they are unjust or unlawful.

3.62 APRA informed the Committee that it had established internal review procedures to deal with matters which applicants asked to be reconsidered, and that APRA call centre staff advised callers of this option where appropriate. From 1 January to 31 October 2001, 614 requests for review were received and on review, 296 of those (48 per cent) were approved 'based in every instance on the applicant providing further information to support their case'.<sup>74</sup>

3.63 The Office of the Commonwealth Ombudsman advised the Committee that the number of complaints to that office about early release had quadrupled over the last four years, from 25 complaints about the former ISC's decisions in 1996/97 to 102 complaints about APRA's decisions in 2000/01. However, the vast majority of complaints were not investigated because the applications had clearly fallen outside

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72 AMP Submission No. 35, p. 7.

73 APRA Submission No. 10, p. 10.

74 APRA Submission No. 10, pp. 10-11.

the prescribed criteria.<sup>75</sup> Of the 30 complaints investigated by the Ombudsman in 2000/01, 26 revealed no defect by APRA, 3 resulted in no conclusion being drawn, and only one complaint revealed a ‘defect’ in APRA’s decision-making.<sup>76</sup>

### Review of trustees’ decisions

3.64 Decisions by trustees of superannuation funds are reviewable by the Superannuation Complaints Tribunal.<sup>77</sup> As the Discussion Paper noted, the Tribunal cannot deal with complaints before they have been through the fund’s internal complaints process. The SIS Act obliges trustees to make arrangements to ensure that members and beneficiaries can make complaints and that such complaints are dealt with in 90 days, although it is for the fund to determine the particular form that its complaints process will take. If the matter proceeds to a hearing, the Tribunal can vary a trustee’s decision or substitute its own decision if it finds that the trustee’s decision was not fair and reasonable in the circumstances.

3.65 NSP Buck commented that ‘because of its known backlog’ the Tribunal was not an appropriate forum to hear urgent claims, as it could take six months to resolve a complaint.<sup>78</sup> In response, the Tribunal’s Deputy Chairperson, Ms Nicole Cullen, noted that the Tribunal was obliged to comply with the procedures set out in its governing legislation,<sup>79</sup> and that three stages of the process were necessary, namely investigation of the matter, conciliation and review. Most matters were resolved in the first stage, with the Tribunal only hearing two per cent of all written cases.<sup>80</sup> Ms Cullen noted that delays are sometimes caused by the involvement of other departments or the need to gather information from other agencies:

Working quickly is obviously one of our top priorities, but when we balance up those criteria I think the most important one is fairness ... Of course, our process involves natural justice and we are subjected to review by the Federal Court, so it is not possible for us to take short cuts where matters of process are concerned.<sup>81</sup>

### Exchange of information between APRA and the Tribunal

3.66 Ms Cullen on behalf of the Tribunal acknowledged that it would be beneficial for APRA and the Tribunal to exchange information about the number and type of

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75 Commonwealth Ombudsman, Submission No. 34, p. 1.

76 That case, discussed in the Commonwealth Ombudsman’s *Annual Report 2000-2001*, p. 93, involved APRA’s refusal to grant early release for mortgage payments to an applicant whose spouse, the joint mortgagor, had also been granted an early release payment from another fund some months before for that purpose. The decision was subsequently reconsidered and the request approved.

77 Under the *Superannuation (Resolution of Complaints) Act 1994*.

78 NSP Buck Submission No. 23, p. 15.

79 *Superannuation (Resolution of Complaints) Act 1993*.

80 Hansard, p. 16.

81 Hansard, pp. 18-19.



cases each body handles, in order to improve understanding of their operations and discuss common issues that may arise.<sup>82</sup> This is not currently done.

3.67 APRA subsequently advised the Committee that statutory reform was being considered to enable APRA and the Tribunal to disclose relevant information to each other. Such disclosure of protected information is currently prohibited unless ASIC is involved.<sup>83</sup>

#### *Committee view*

3.68 The Committee notes strong support for centralisation of the administration of both severe financial hardship and compassionate ground applications in a single agency. While different views were offered, most organisations agreed that the most appropriate agency would be Centrelink.

3.69 The Committee notes that Centrelink is currently only involved in severe financial hardship applications, and then only by providing documentary evidence of an applicant's receipt of income support payments. Giving Centrelink responsibility for determining applications on compassionate grounds would increase the agency's client base, as such applicants, including those seeking to prevent foreclosure on a mortgage, may not necessarily be existing Centrelink clients receiving income support. Nevertheless, as Centrelink has acknowledged, the agency has access to valuable support mechanisms for those in distressing circumstances and staff experience in dealing with such issues. Such networks are not part of the core business of the prudential regulator, APRA.

3.70 The Committee has not finally determined the issue, as further exploration by, and consultation between, the relevant government agencies may be warranted. However, the Committee supports centralisation of the administration of severe financial hardship and compassionate ground claims in a single government agency, and suggests that the appropriate agency would be Centrelink. The Committee notes that the Government must ensure that the agency is adequately resourced and has sufficient skilled staff to deal with applications quickly and efficiently.

3.71 The Committee notes concerns that the early release of superannuation benefits has been used as a substitute for or supplement to social security payments, particularly during the period when the superannuation assets of people aged 55 and over were included in the social security means test. The Committee urges Centrelink to ensure that applicants are fully informed of the likely effects of early release on their retirement income and that clients do not face undue pressure from Centrelink to apply for the early release of superannuation benefits.

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82 Hansard, p. 16.

83 Correspondence to the Committee from APRA 2 January 2002. The *Australian Prudential Regulation Authority Act 1998* (s. 56(5)(a)) restricts disclosure by APRA to financial sector supervisory agencies or other agencies specified in regulations. Similarly, the secrecy provisions of the *Superannuation (Resolution of Complaints) Act 1993* prevent the Tribunal from passing information directly to APRA.

3.72 As previously noted the Committee observes that the distinction between the grounds of severe financial hardship and compassionate grounds may need to be reviewed. The Committee favours combining the criteria into one common set of specified criteria which would cover both sorts of circumstances.

3.73 The Committee notes that giving responsibility for all early access claims to one agency would resolve the present differences in review of decisions on the two types of applications by different bodies, in that one external body could be made responsible for reviewing all early release decisions. However, if the current system is maintained contrary to the Committee's recommendation, the Committee urges the Superannuation Complaints Tribunal and APRA to meet regularly to discuss common issues and problems in the two early release schemes. The Committee also urges Centrelink, if the current system is maintained, to retain records of letters supplied to applicants for early release on the grounds of severe financial hardship and to make these records available to any superannuation fund or RSA that receives a later application from that person.

#### **Recommendation 5**

**3.74 The Committee recommends that all early release payments on the basis of severe financial hardship and compassionate grounds (or specified criteria) be administered by a single government agency, which must be provided with adequate funding and staffing, and suggests that Centrelink would appear to be the appropriate agency.**

#### **Recommendation 6**

**3.75 The Committee recommends that a single external review mechanism apply to the agency's decisions on early release applications, irrespective of the grounds on which the application was made.**

## CHAPTER 4

### OTHER KEY ISSUES

#### Introduction

4.1 During this inquiry, several other issues were frequently raised:

- whether the grounds for release should be broadened;
- whether payments should be released directly to a third party, such as a bank, to ensure the funds are spent as outlined by the applicant; and
- whether the current process needs to be more streamlined, in order to help those in crisis.

#### **Should the grounds for release be broadened in any way?**

4.2 While there was strong support for the general principle of preservation of funds until retirement, the Committee received many submissions and heard from several witnesses who argued that the prescribed grounds of release needed to be broadened to allow for genuine cases of hardship that fell outside the current rules.

4.3 Some of the concerns most commonly raised are outlined below. They are:

- the 26 week qualifying period for income support payments;
- the eligibility of people with other types of income, such as workers' compensation;
- inability to pay rent;
- other qualifying grounds; and
- limits on the extent and frequency of payments.

#### *Relaxation of the qualifying period for income support payments*

4.4 Several submissions argued that the strict requirement for 26 continuous weeks on income support was too rigid. For example, IFSA (Investment & Financial Services Association Ltd) stated:

Individuals may not have fully continuous income support for a wide variety of reasons, yet still be in severe financial hardship. Application of administrative breaches and penalties in the income support system is one such reason that has received significant negative coverage. A simpler

requirement, such as for 26 weeks' income support in 39 weeks, would provide flexibility within a simple and objective measure.<sup>1</sup>

4.5 A submission from NSP Buck similarly suggested that 26 weeks in a 40 week period should be considered.<sup>2</sup> Ms Marie Sullivan of NSP Buck, as well as the National Seniors Association, noted that more flexible assessment would avoid a disincentive to applicants in taking available short-term or casual work.<sup>3</sup> NSP Buck argued that the whole of an applicant's circumstances should be considered, referring to 'regular cases' where there had been clear financial hardship but the person had not fallen within the current guidelines.<sup>4</sup>

4.6 AIST suggested a different modification, namely redefining the 26 week period to include periods where no benefit was paid for reasons other than employment income.<sup>5</sup> ASFA noted that many people on income support payments 'are in dire financial circumstances long before the 26 weeks have expired. This is particularly so for those who are in and out of work on a regular basis.'<sup>6</sup> However, two other submissions commented that their experience had not shown up any difficulty with the current provisions.<sup>7</sup>

#### *Other types of income, such as workers' compensation*

4.7 APRA noted that people contacting its call centre frequently raised particular anomalies in eligibility for early release on severe financial hardship grounds. These were as follows:

- where an Additional Parenting Payment is made to the applicant's partner rather than the applicant. This income support payment is calculated on the basis of total family income and would qualify the applicant if paid to him or her. However, because the payment is made to the main carer of the children who may be the applicant's partner, it will not qualify the applicant for release on the grounds of severe financial hardship;
- where an applicant would be entitled to a Commonwealth income support payment but has voluntarily declined to receive it;
- where an applicant is on workers' compensation from an insurance company; and
- where an applicant is in detention.

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1 IFSA Submission No. 15, p. 2.

2 NSP Buck, Submission No. 23, p. 8.

3 Hansard, p. 55; National Seniors Association Submission No. 22, p. 2.

4 NSP Buck, Submission No. 23, p. 8.

5 AIST Submission No. 4, p. 5.

6 ASFA Submission No. 24, p. 20.

7 UniSuper Submission No. 13, p. 6; SMF Funds Management Ltd Submission No. 30, p.3.

4.8 In such cases, the applicant's family may well be unable to meet reasonable and immediate family expenses, but the applicant will not be eligible for release under the current severe financial hardship provisions because he or she will not receive the required Centrelink document.

4.9 When asked by the Committee whether the rules should be amended to include such categories, representatives from APRA would not express an opinion, but noted that there were no simple solutions to perceived problems.<sup>8</sup>

4.10 A submission from Maurice Blackman Cashman argued that other categories also warranted inclusion:<sup>9</sup>

- Those people on workers' compensation, transport accident or personal income protection payments because of disabilities are usually not eligible for Commonwealth income support payments. In many cases, their payments are little more than the Commonwealth payments, leaving them in similar financial hardship to those on such payments.
- Austudy and youth allowance payments should not automatically be excluded as they 'are no less indicative of severe financial hardship'. Austudy recipients were often 'attempting to rehabilitate themselves into the workforce and thereby enhance their retirement incomes in the longer term. They should not be discouraged from doing so by excluding such payments' from the rules.
- Where a couple separate because, for example, of domestic violence, a non-working person who was not previously eligible for income support payments because of the partner's income or assets must wait at least 26 weeks before becoming eligible for early release. In the meantime, that person may have no assets, income or even basic essentials.
- There may be other people who are in severe financial difficulty but are ineligible for Commonwealth income support payments, such as immigrants within the first two years of arrival in Australia; people only seeking part-time work because of personal circumstances; and workers stood down because of an employer's financial difficulties.

### *Rent*

4.11 Another issue the Committee was keen to explore was whether an inability to pay rent should qualify as a compassionate ground for early release of superannuation, since threat of foreclosure on a mortgage is a recognised ground.<sup>10</sup>

4.12 It has been shown that a strong correlation exists between home ownership and financial wellbeing in retirement in Australia. The family home is a substantial

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8 Hansard, p. 7.

9 Maurice Blackburn Cashman Submission No. 16, pp. 3-5.

10 This matter was raised in Q. 22 of the Committee's Discussion Paper.

asset which contributes significantly to wealth: it has been found to represent an average of 44 per cent of a person's wealth, with that proportion rising to over 60 per cent for 'middle Australians'.<sup>11</sup> For the least wealthy who either do not own their own home or whose outstanding mortgage negates the value of their home, compulsory saving through superannuation often represents almost all of their wealth.<sup>12</sup>

4.13 Almost all submissions to the Committee on this point agreed that people facing eviction for non-payment of rent are in equally stressful circumstances as those who may lose their home through mortgage foreclosure, and that therefore there should be no distinction in terms of access to early release of superannuation funds.<sup>13</sup> As ASFA's Chief Executive Officer commented:

The general tenor of the commentary we got [from ASFA members] was that people did not see the distinction in quite those terms between owning a house and renting. It was more a matter of having a roof over your head ... that distinction should not be there.<sup>14</sup>

4.14 NSP Buck added that renters who lose their residence are likely to find it even more difficult to find a new home to rent because of the start up costs, such as bond and moving expenses, on top of their other financial problems.<sup>15</sup>

#### *Other grounds*

4.15 Several submissions supported expanding APRA's existing discretion on compassionate grounds to allow for other 'genuine unique cases' to be considered.<sup>16</sup> Other submissions argued for specific amendments to take account of certain circumstances. More detail is given below.

#### Disability, medical treatment and palliative care

4.16 ACROD (the National Industry Association for Disability Services) commented that for many people who have disabilities or require medical treatment or

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11 Kelly, S 'Wealth on retirement: latest estimates for Australia', Paper presented to the Ninth Annual Colloquium of Superannuation Researchers, University of New South Wales, 9-10 July 2001, p. 13.

12 *ibid*, p. 14. Superannuation was calculated to represent 90 per cent of the wealth of the poorest 20 per cent of the population, based on 1997-98 figures.

13 UniSuper Ltd Submission No. 13, p. 11; NSP Buck Submission No. 23, p. 12; AIST Submission No. 4, p. 8; SCOA Submission No. 29, p. 3; Combined Pensioners and Superannuants Association of NSW Submission No. 28, p. 8; SMF Funds Management Ltd Submission No. 30, p. 4. The Catholic Schools Superannuation Fund (WA) commented that it did not believe it was necessary to include inability to meet rental payments under compassionate grounds as this was covered by the severe financial hardship grounds (Submission No. 2, p. 2). However, the Committee notes that only those people on income support payments would be covered by those provisions.

14 Ms Phillippa Smith, Hansard, p. 39.

15 NSP Buck Submission No. 23, p. 12.

16 FPA Submission No. 32, p. 3; SMF Funds Management Ltd, Submission No. 30, p. 4.

palliative care, the greatest expense is for professional carers. ACROD urged that carers' expenses be included as a prescribed expense.<sup>17</sup>

4.17 In relation to the current requirement for certification by medical practitioners that required medical treatment is not available through the public health system, ACROD commented that many rural and regional communities did not have health products or services that were available through the public health system. ACROD suggested that the criteria be broadened to allow for this reality.<sup>18</sup> Tasplan also argued that medical conditions that were not 'life-threatening' as required under the current rules, but were nevertheless 'severe', should also be recognised.<sup>19</sup>

4.18 Representatives from the Motor Neurone Disease Association of Australia and the state branch in Victoria argued that a prescribed list of certain terminal illnesses and diseases, including motor neurone disease (MND), should be developed in relation to early release.<sup>20</sup> They suggested that once a positive diagnosis of such a disease had been made, the whole of a patient's superannuation entitlement should be released within 30 days of an application.<sup>21</sup> Their reasoning was as follows:

Research has shown that over 90% of people with the disease are supported by a spouse or carer in the home (Sach, 1995). All adult age brackets are at risk of the disease however frequency increases after 40 years of age and peaks in the 50 – 60 years age bracket.

It is because of these facts that the financial demographic of an MND household changes rapidly following the traumatic diagnosis of this terminal disease. Both patient and carer are unable to undertake paid work and become reliant on Commonwealth support payments. When dependent siblings are also added to the family unit, a diagnosis of MND may also translate into the onset of *severe financial hardship*.

Existing provisions within the superannuation system allow for a maximum of \$10,000 per annum ... Based on a life expectancy of under 2½ years, access would be (possibly) granted to just \$20,000 prior to death. A household faced with the proposition of caring for an individual with MND needs to make many adjustments [to the home] ... Other costs include the use of disabled taxi services for transport, extensive medical expenses and

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17 ACROD Submission No. 20, p. 1.

18 ACROD Submission No. 20, p. 1.

19 Tasplan Submission No. 3, p.7. The current rules also allow for necessary treatment for acute or chronic pain and acute or chronic mental disturbance, but not for other 'severe' conditions.

20 Motor Neurone Disease Association of Australia, Submission No. 25, p. 1.

21 They suggested that guidelines and diagnosis criteria would need to be developed in conjunction with the medical and scientific community, and two medical opinions 'should be the benchmark' (Submission No. 25, p. 3).

other ancillary medical expenses. The balance available from \$20,000 over the course of 2 years for basic living requirements is minimal if not zero.<sup>22</sup>

4.19 Mr Michael Howard commented further:

The prime focus for people with MND should be their quality of life, and if this requires changing house to ensure appropriate facilities can be made available, APRA should allow this.<sup>23</sup>

4.20 Mr Peter Andren MP, the independent Member for Calare, NSW, stated that often constituents who sought his assistance expressed concern that:

... the rigid objective tests do not allow for the range of expenses that may arise because of the crisis at hand. For example, a family with a very ill child may need to access funds not only to help pay for medical treatment, but also to help cover costs incurred by a parent travelling to be with his or her child, or living expenses incurred after treatment while caring for the child.<sup>24</sup>

#### The needs of primary producers

4.21 The current rules recognise that drought relief and exceptional circumstances payments under the *Farm Household Support Act 1992* are eligible income support payments for the purpose of severe financial hardship applications. However, the Department of Agriculture, Fisheries and Forestry - Australia (AFFA) recommended that several other options should be examined to ensure that the needs of farmers were met. In particular, AFFA argued that a fundamental issue:

... is whether individuals in business should be able to access their superannuation savings to assist a business facing severe financial hardship ... (F)or many people in business the financial affairs of the individual are inextricably linked to the business in which they are involved ... The implications of the current stringent arrangements for access to superannuation is that people in business will invest less in superannuation than would be the case if they had easier access to these funds. This will especially be the case for businesses – such as farming – that are characterised by large fluctuations in profitability ...<sup>25</sup>

4.22 AFFA suggested that possible options that could be examined included:

an additional criterion – similar to the current criterion which aims to prevent foreclosure of a mortgage on a person's principal place of residence – to allow access to prevent foreclosure of a loan on a business' principal assets such as a farm;

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22 Motor Neurone Disease Association of Australia, Submission No. 25, pp. 2-3.

23 Mr Michael Howard, Submission No. 21, p. 6.

24 Mr Peter Andren MP, Submission No. 7, p. 2.

25 AFFA Submission No. 36, p. 5.



an extension of the definition of ‘severe financial hardship’ to include experiencing significant periods with zero or negative business income; or

a facility to allow superannuation fund members to borrow against their balance in the fund for limited periods (say 12 months) without losing their accrued benefits.<sup>26</sup>

4.23 AFFA noted that such options would need to be closely examined in relation to the impact on administration costs and whether it was necessary to ‘clawback’ the taxation concessions given to superannuation contributions.<sup>27</sup>

#### Other grounds

4.24 Mr Armin Breakwell, a director and trustee of an employer-based superannuation trust, argued that the current test for severe financial hardship was too stringent and that consideration should be given to other people facing financial difficulties: on divorce, when facing unforeseen medical and legal costs, or if needing to put funds towards a deposit on buying a house.<sup>28</sup>

4.25 The Catholic Schools Superannuation Fund (WA) suggested that consideration be given to allowing compassionate release in cases of natural disaster such as flood or bush fire, since members may be uninsured and disaster relief may be slow in being provided.<sup>29</sup>

#### *Limits on payments*

4.26 Under the current provisions, certain limits on the amount and frequency of early release payments apply. These are discussed below.

#### Severe financial hardship

4.27 The Discussion Paper asked whether the limits on the amount that can be released on severe financial hardship grounds for those people under the preservation age (that is, the amount must be a single lump sum of not more than \$10,000 in each 12 months) were appropriate.

4.28 Most submissions on this point considered that the maximum amount of \$10,000 was appropriate.<sup>30</sup> However, two suggested that the limit should be indexed

26 AFFA Submission No. 36, p.6.

27 AFFA Submission No. 36, p.6.

28 Mr Armin Breakwell, Submission No. 33, p. 1.

29 Catholic Schools Superannuation Fund (WA) Submission No. 2, p.2.

30 SMF Funds Management Ltd Submission No. 30, p. 4; ASFA Submission No. 24, p. 23; NSP Buck Submission No. 23, p. 10; UniSuper Submission No. 13, p. 8; AIST Submission No. 4, p. 7; Tasplan Submission No. 3, p. 6; Catholic Schools Superannuation Fund (WA) Submission No. 2, p. 2; SCOA Submission No. 29, p. 4.

regularly to maintain its comparative value.<sup>31</sup> Three other submissions suggested that more flexibility should be provided by allowing more than one payment in each twelve months up to the maximum amount.<sup>32</sup> A fifth submission suggested that while the current limits were sufficient to handle the vast majority of cases, there could be provision for special evaluation of those few cases where the limits were insufficient.<sup>33</sup>

### Compassionate grounds

4.29 The Discussion Paper also asked whether there should be any change to the current restriction on compassionate ground payments. Where the reason for release is to prevent foreclosure on a mortgage, the maximum is three months' mortgage repayments.

4.30 Some submissions suggested that the maximum was too low. UniSuper observed that three months' payments would not alleviate long-term financial difficulties for long-term unemployed people, and suggested the period be extended.<sup>34</sup> The Combined Pensioners and Superannuants Association of NSW expressed a similar view particularly in relation to unemployed people in their fifties, noting that those people had more difficulty finding re-employment.<sup>35</sup> SMF Funds Management suggested that twelve months' principal and interest would be more appropriate,<sup>36</sup> and the Financial Planning Association of Australia Ltd (FPA) also favoured increasing the limit to twelve months' repayments.<sup>37</sup> Two submissions commented that each case should be considered on its own merits,<sup>38</sup> and AIST cautioned that this issue raised the appropriateness of using superannuation funds in such a way where the applicant's financial problems are more than short term.<sup>39</sup>

4.31 For other types of release on compassionate grounds, there is currently no prescribed maximum. However, the amount approved must be a single lump sum which is determined by APRA to be 'reasonably required'.

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31 NSP Buck Submission No. 23, p. 10; AIST Submission No. 4, p. 7.

32 Catholic Schools Superannuation Fund (WA) Submission No. 2, p. 2; UniSuper Submission No. 13, p. 8; AIST Submission No. 4, p.11.

33 ASFA Submission No. 24, p. 23. The National Seniors Association (Submission No. 22, p.2) suggested that the maximum amount should vary with the circumstances of each case.

34 UniSuper Ltd Submission No. 13, p. 10.

35 Combined Pensioners and Superannuants Association of NSW Submission No. 28, p. 8.

36 SMF Funds Management Ltd, Submission no. 30, p. 4.

37 FPA Submission No. 32, p. 3.

38 NSP Buck Submission No. 23, p. 12; National Seniors Association Submission No. 22, p. 2.

39 AIST Submission No. 4, p. 8.

4.32 Mr Michael Howard, President of the Motor Neurone Disease Association of Victoria, argued that limiting funds to a single payment was inappropriate where the application was approved on the basis of a prescribed medical condition:

Releasing all funds at once is not desirable, as the family in their stressed state may be vulnerable, and accordingly the trustees [sh]ould be given the responsibility of ensuring that sufficient funds are available as and when required.<sup>40</sup>

4.33 The Combined Pensioners and Superannuants Association of NSW argued that the single lump sum method also failed to recognise the possibility of further funds being required due to changing circumstances.<sup>41</sup> However, several other submissions considered the current system adequate.<sup>42</sup>

#### *Committee view*

4.34 The views outlined above represent only a summary of the range and type of concerns most frequently raised by superannuation funds, individual fund members and relevant organisations. Because of the short timeframe for this inquiry, the Committee has not been able to consider each issue in detail in order to form a concluded view.

4.35 However, the Committee considers that the evidence it has received points to wide-ranging dissatisfaction with the rigidity of the current rules on the part of most organisations and individuals who made submissions to this inquiry. Each suggestion for change outlined above presents policy questions that warrant careful and detailed consideration by government.

4.36 While the Committee acknowledges the general view that the principle of preservation of funds for retirement is centrally important and recognises that set criteria are to be preferred to a broad unfettered discretion to release funds, the Committee believes there is much merit in the suggestions that the early release rules should accommodate such matters as:

- increasing the flexibility of the current requirement of 26 weeks' receipt of income support payments to include 26 out of (for example) 40 weeks;
- recognising inability to meet rental payments as a ground for release of funds on compassionate grounds, on the basis that threatened loss of one's home is extremely stressful and has major financial implications whether the residence is owned or rented;
- recognising the financial difficulties suffered by people with sources of income that fall outside the current severe financial hardship grounds, such as workers'

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40 Mr Michael Howard, Submission No. 21, p. 6.

41 Combined Pensioners and Superannuants Association of NSW Submission No. 28, p. 7.

42 UniSuper Submission No. 13, p. 10; Cbus Submission No. 11, p. 2; AIST Submission No. 4, p. 8.

compensation and some other types of Commonwealth income support payments including income support payments to students;

- broadening the types of expenses for which people facing severe illness or disease may claim, such as carers' payments; and
- considering the particular circumstances of primary producers.

4.37 In particular the Committee considers that there would be merit in extending the criteria to include a prescribed list of certain terminal illnesses and diseases, such as motor neurone disease, so that where there is conclusive medical evidence of the existence of one of these terminal conditions (two medical opinions), these claims be processed without delay and funds be released expeditiously to the claimant. The Committee notes that alternative avenues such as permanent incapacity for employment could apply to such fund members, but recognises that lengthy delays in processing claims on these grounds could inhibit early access to much needed funds.

4.38 The Committee also considers that if the current criteria are extended in a limited way, the administration of the rules by a single agency would help to promote consistency in decision-making and avoid widely differing interpretations of the rules.

4.39 As previously mentioned in this report, the Committee considers that there is merit in removing the distinction between the two types of criteria – severe financial hardship and compassionate grounds – and replacing them with one common set of specified criteria. In addition to simplifying the rules governing early access, this would also enable claims from terminally ill patients, which might fit into either category, to be processed expeditiously.

4.40 The Committee cautions that while access under certain circumstances should be permitted, it should not be made too easy because of the danger of eroding retirement incomes.

### **Recommendation 7**

**4.41 The Committee recommends that the Government consider extending the criteria that govern early access to superannuation, given the evidence the Committee has received of widespread dissatisfaction with the rigidity of the current grounds for release.**

### **Recommendation 8**

**4.42 The Committee recommends that where there is conclusive medical evidence of the existence of a prescribed terminal illness, claims be processed without delay.**

### **Should payments be released directly to a third party?**

4.43 SMF Funds Management Ltd argued that the current system was open to misuse in terms of how released funds could be applied. SMF suggested:

... provision should be made to ensure that government agencies have some form of control over these funds, for the trustee of the fund has no guarantee that the funds will actually be applied for the purpose proposed, eg (debt) reduction, payment of rent etc.<sup>43</sup>

4.44 In the case of release of funds to prevent foreclosure on a mortgage, FPA<sup>44</sup> and NSP Buck<sup>45</sup> recommended consideration of authorising the release of mortgage repayments direct to the mortgagor. However, NSP Buck also recommended that where a financial planner had applied on a member's behalf, the payment should be made directly to the person rather than the financial planner, because of past problems with some unscrupulous advisors.<sup>46</sup> As the Discussion Paper outlined, ASIC has taken action recently against several financial advisors who arranged fraudulent early payouts of preserved benefits and who in some cases stole from those funds.<sup>47</sup>

#### *Committee view*

4.45 The Committee considers that there is merit in examining in further detail whether funds should in some circumstances be paid directly to third parties whose expense form either a large part or the whole reason for the application for early release. This would help to prevent applicants spending approved funds on other items and making a further claim to resolve existing debts.

#### **Does the process need to be more streamlined?**

4.46 Organisations representing people in need of medical treatment or palliative care particularly stressed the need for the process to be streamlined where possible. Palliative Care Victoria stated that it had been told that the process sometimes was 'very onerous during what is a particularly distressing time for patients and families':

In one example, a file in excess of 15 centimetres of paperwork was required to enable early access to the person's superannuation funds. Perhaps a little excessive! There is certainly a need to establish the veracity of a claim, and to pursue other avenues of financial support before using superannuation funds, especially if there is a surviving family. However, if there is any way the Senate Select Committee can influence the processes to ensure a simple, fast evaluation of a claim for early access to superannuation funds this would be beneficial to those in palliative care in a manner that is greater than the financial component.<sup>48</sup>

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43 SMF Funds Management, Submission No. 30, p. 2.

44 FPA Submission No. 32, p. 3.

45 Ms Marie Sullivan, Hansard, p. 60.

46 Ms Marie Sullivan, Hansard, p. 60.

47 Discussion Paper, paras 5.12-5.14.

48 Palliative Care Victoria, Submission No. 8, p. 6.

4.47 Other submissions also called for the process to be expedited.<sup>49</sup> The Motor Neurone Disease Association of Victoria argued that urgent access to funds was necessary in the case of rapidly progressing conditions such as MND, in order to preserve quality of life for the person and his or her family. The Association suggested that APRA should be obliged to determine matters within 7 days (4 days if a defined event) and funds should be obliged to release monies within 5 days of notification of approval by APRA.<sup>50</sup> Mr Peter Andren MP advised the Committee that his constituents ‘often express concern’ at the time superannuation funds took to process applications, noting that ‘the types of cases we are talking about are of people in crisis’.<sup>51</sup>

4.48 However, APRA noted that the main problem with applications made on compassionate grounds was that insufficient information was initially provided, with about 45 per cent of all applications to APRA requiring more information before a decision can be made.<sup>52</sup> Ms Helen Dyson from the AIST confirmed that trustees often had similar problems with applications from members.<sup>53</sup>

#### *Committee view*

4.49 The Committee notes that APRA has found that almost half of applications for release on compassionate grounds require further information, and considers it likely that many superannuation funds have had similar experiences. As some submissions noted, people in crisis are not necessarily in the best position to provide detailed and reasoned information because of the stress they are under. Nevertheless, the genuineness of claims must be assessed and regulations must be followed. Consequently a mandatory time limit on finalising applications may not be workable.

4.50 However, there would seem to be no problem in imposing a requirement on superannuation funds to act promptly once APRA (or other responsible agency in the future, such as Centrelink) has notified them of its decision to authorise the release of funds.

4.51 Consequently the Committee considers that trustees should be required by law to act within a specified time of receiving notification of authorisation by APRA (or whichever agency may assume the responsibility for early release) to release superannuation funds. Adopting this approach would also ensure the expeditious release of funds to terminally ill fund members.

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49 Mr Phillip Surtees, Submission No. 18, p. 2; National Seniors Association Submission No. 22, p. 2; Mr Armin Breakwell, Submission No. 33, p. 1;

50 Motor Neurone Disease Association of Victoria Inc, Submission No. 14, p. 4.

51 Mr Peter Andren MP, Submission No. 7, p. 3.

52 APRA, Submission No. 10. p. 9.

53 Ms Helen Dyson, Hansard, P. 50.

## **Recommendation 9**

**4.52 The Committee recommends that trustees be required by law to release funds within a specified time of receiving notification of authorisation by the relevant government agency with responsibility for administering claims for the early release of superannuation benefits.**

### **Some remaining issues**

4.53 Several other issues were raised in the Committee's Discussion Paper, including public awareness of the early release provisions and the role of the Superannuation Complaints Tribunal; the relationship between withdrawals from superannuation and income support payments and the effect of the recent changes for people over 55 years of age; and the role of financial advisors.

4.54 While the Committee received some responses on each of these issues, the Committee chose to focus its attention in this report on the main issues of concern, and thus has not addressed these matters in any detail. However, the Committee believes that if the recommendations in this report are implemented, particularly in relation to the administration of all early access claims by a single agency applying consistent rules across the industry and the suggested examination by government of other major issues of concern, such matters can be considered in more detail at that time.

**Senator John Watson**  
**Chair**





# **APPENDIX 1**

## **SUBMISSIONS RECEIVED**

- 1 Mr Lionel Perry
- 2 Catholic Schools Superannuation Fund (WA)
- 3 Tasplan
- 4 AIST
- 5 Australian Council of Public Sector Retiree Organisations Inc
- 6 Superannuation Complaints Tribunal
- 7 Mr Peter Andren MP
- 8 Palliative Care Victoria
- 9 The Institute of Chartered Accountants in Australia
- 10 Australian Prudential Regulation Authority (APRA)
- 11 Cbus
- 12 ARISA
- 13 UniSuper Ltd
- 14 Motor Neurone Disease Association of Victoria Inc
- 15 IFSA
- 16 Maurice Blackburn Cashman
- 17 HortSuper
- 18 Mr Phillip Surtees, President, National Seniors Association,  
Sorrento WA Branch
- 19 Meat Industry Employees' Superannuation Fund Pty Ltd
- 20 ACROD
- 21 Mr Michael Howard

- 22 National Seniors Association
- 23 NSP Buck Pty Limited
- 24 Association of Superannuation Funds of Australia (ASFA)
- 25 Motor Neurone Disease Association of Australia
- 26 SISFA
- 27 Australian Taxation Office
- 28 Combined Pensioners and Superannuants Association of NSW
- 29 Superannuated Commonwealth Officers' Association (Federal Council)
- 30 SMF Funds Management Limited
- 31 ASIC
- 32 Financial Planning Association of Australia (FPA)
- 33 Mr Armin Breakwell
- 34 Commonwealth Ombudsman
- 35 AMP
- 36 Department of Agriculture, Fisheries and Forestry - Australia

## APPENDIX 2

### WITNESSES WHO APPEARED BEFORE THE COMMITTEE AT PUBLIC HEARINGS

#### Thursday, 13 December 2001, Melbourne

*Australian Prudential Regulation Authority*

Mr Roger Brown, Senior Manager, Rehabilitation and Enforcement  
Ms Thea Rosenbaum, Company Secretary

*Superannuation Complaints Tribunal*

Ms Nicole Cullen, Deputy Chairperson

*Tasplan*

Mr Neil Cassidy, General Manager

*Association of Superannuation Funds of Australia Ltd*

Mr Robert Hodge, Senior Policy Adviser (Tax)  
Ms Philippa Smith, Chief Executive Officer

*Australian Institute of Superannuation Trustees*

Ms Helen Dyson, Vice-President

*NSP Buck*

Ms Marie Sullivan, General Manager

*SMF Funds Management Ltd*

Mr Ian Griffiths, Executive Director

*Motor Neurone Disease Association*

Mr Rodney Harris, Chief Executive Officer,  
Motor Neurone Disease Association of Victoria  
Mr Michael Howard, President  
Motor Neurone Disease of Victoria, and  
Representative for President, Motor Neurone Disease of Australia

*Maurice Blackman Cashman, Lawyers*

Mr John Berrill, Partner

*Australian Superannuation Savings Employment Trust Super*

Mr Michael Dwyer, General Manager and Fund Secretary



## **APPENDIX 3**

### **TABLED DOCUMENTS**

Letter from Frances Magill, Chief Executive Officer of Statewide Superannuation Trust to Neil Cassidy, General Manager, Tasplan supporting Tasplan's comments on the Early Access to Super Discussion Paper. Tabled by Mr Neil Cassidy, Tasplan, on 13 December 2001 in Melbourne.



## APPENDIX 4

### LIST OF COMMITTEE REPORTS

#### Reports of the Select Committee on Superannuation (1991-1998)

- ❑ *Super System Survey* - A Background Paper on Retirement Income Arrangements in Twenty-one Countries (December 1991)
- ❑ Papers relating to the Byrnwood Ltd, WA Superannuation Scheme (March 1992)  
Interim Report on Fees, Charges and Commissions in the Life Insurance Industry (June 1992)
- ❑ First Report of the Senate Select Committee on Superannuation - *Safeguarding Super* - the Regulation of Superannuation (June 1992)
- ❑ Second Report of the Senate Select Committee on Superannuation - *Super Guarantee Bills* (June 1992)
- ❑ *Super Charges* - An Issues Paper on Fees, Commissions, Charges and Disclosure in the Superannuation Industry (August 1992)
- ❑ Third Report of the Senate Select Committee on Superannuation - *Super and the Financial System* (October 1992)
- ❑ *Proceedings of the Super Consumer Seminar*, 4 November 1992 (4 November 1992)
- ❑ Fourth Report of the Senate Select Committee on Superannuation - *Super - Fiscal and Social Links* (December 1992)
- ❑ Fifth Report of the Senate Select Committee on Superannuation - *Super Supervisory Levy* (May 1993)
- ❑ Sixth Report of the Senate Select Committee on Superannuation - *Super - Fees, Charges and Commissions* (June 1993)
- ❑ Seventh Report of the Senate Select Committee on Superannuation - *Super Inquiry Overview* (June 1993)
- ❑ Eighth Report of the Senate Select Committee on Superannuation - *Inquiry into the Queensland Professional Officers Association Superannuation Fund* (August 1993)

- Ninth Report of the Senate Select Committee on Superannuation - *Super Supervision Bills* (October 1993)
- Tenth Report of the Senate Select Committee on Superannuation - *Super Complaints Tribunal* (December 1993)
- Eleventh Report of the Senate Select Committee on Superannuation - *Privilege Matter Involving Mr Kevin Lindeberg and Mr Des O'Neill* (December 1993)
- A Preliminary Paper Prepared by the Senate Select Committee on Superannuation for the Minister for Social Security, *Options for Allocated Pensions Within the Retirement Incomes System* (March 1994)
- Twelfth Report of the Senate Select Committee on Superannuation - *Super for Housing* (May 1994)
- Thirteenth Report of the Senate Select Committee on Superannuation - *Super Regs I* (August 1994)
- Fourteenth Report of the Senate Select Committee on Superannuation - *Super Regs II* (November 1994)
- Fifteenth Report of the Senate Select Committee on Superannuation - *Super Guarantee - Its Track Record* (February 1995)
- Sixteenth Report of the Senate Select Committee on Superannuation - *Allocated Pensions* (June 1995)
- Seventeenth Report of the Senate Select Committee on Superannuation - *Super and Broken Work Patterns* (November 1995)
- Eighteenth Report of the Senate Select Committee on Superannuation - *Review of the Superannuation Complaints Tribunal* (April 1996)
- Nineteenth Report of the Senate Select Committee on Superannuation - *Reserve Bank Officers' Super Fund* (June 1996)
- Twentieth Report of the Senate Select Committee on Superannuation - *Provisions of the Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996 - Schedule 1* (November 1996)
- Twenty-first Report of the Senate Select Committee on Superannuation - *Investment of Australia's Superannuation Savings* (December 1996)
- Twenty-second Report of the Senate Select Committee on Superannuation - *Retirement Savings Accounts Legislation* (March 1997)
- Twenty-third Report of the Senate Select Committee on Superannuation - *Superannuation Surcharge Legislation* (March 1997)



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- Twenty-fourth Report of the Senate Select Committee on Superannuation - *Schedules 1, 9 & 10 of Taxation Laws Amendment Bill (No. 3) 1997* (June 1997)
  - Twenty-fifth Report of the Senate Select Committee on Superannuation - *The Parliamentary Contributory Superannuation Scheme & the Judges' Pension Scheme* (September 1997)
  - Twenty-sixth Report of the Senate Select Committee on Superannuation - *Super - Restrictions on Early Access: Small Superannuation Accounts Amendment Bill 1997 and related terms of reference.* (September 1997)
  - Twenty-seventh Report of the Senate Select Committee on Superannuation - *Superannuation Contributions Tax Amendment Bills.* (November 1997)
  - *Super Taxing* - An information paper on the Taxation of Superannuation and related matters. (February 1998)
  - Twenty-eighth Report of the Senate Select Committee on Superannuation – *Choice of Fund.* (March 1998)
  - Twenty-ninth Report of the Senate Select Committee on Superannuation - *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 1997, Commonwealth Superannuation Board Bill 1997, Superannuation Legislation (Commonwealth Employment - Saving and Transitional Provisions) Bill 1997.* (April 1998)
  - Thirtieth Report of the Senate Select Committee on Superannuation - *Workplace Relations Amendment (Superannuation) Bill 1997.* (May 1998)
  - Thirty-first Report of the Senate Select Committee on Superannuation - *Resolving Superannuation Complaints* - options for dispute resolution following the Federal Court decision in *Wilkinson v CARE.* (July 1998)

## **Reports of the Select Committee on Superannuation and Financial Services**

**(1999 - 2001)**

- ❑ *Choice of Superannuation Funds (Consumer Protection) Bill 1999* (November 1999)
- ❑ *Superannuation Legislation Amendment Bill (No. 4) 1999* (November 1999)
- ❑ *Roundtable on Choice of Superannuation Funds* (March 2000)
- ❑ *Provisions of the Superannuation (Entitlements of Same Sex Couples) Bill 2000* (April 2000)
- ❑ *New Business Tax System (Miscellaneous) Bill No 2 2000* (June 2000)
- ❑ *Financial Sector Legislation Amendment Bill (No 1) 2000* (August 2000)
- ❑ *Interim report on the Family Law Legislation Amendment (Superannuation) Bill 2000* (November 2000)
- ❑ *Taxation Laws Amendment (Superannuation Contributions) Bill 2000* (December 2000)
- ❑ *Family Law Legislation Amendment (Superannuation) Bill 2000* (March 2001)
- ❑ *The opportunities and constraints for Australia to become a centre for the provision of global financial services* (March 2001)
- ❑ *A 'reasonable and secure' retirement? The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes* (April 2001)
- ❑ *Enforcement of the Superannuation Guarantee Charge* (April 2001)
- ❑ *Issues arising from the Committee's report on the Taxation Laws Amendment (Superannuation Contributions) Bill 2000* (May 2001)
- ❑ *Report on the Provisions of the Parliamentary (Choice of Superannuation) Bill 2001* (August 2001)
- ❑ *Prudential supervision and consumer protection for superannuation, banking and financial services - First Report* (August 2001)
- ❑ *Prudential supervision and consumer protection for superannuation, banking and financial services - Second Report - Some case studies* (August 2001)

- *Prudential supervision and consumer protection for superannuation, banking and financial services - Third Report - Auditing of Superannuation Funds (September 2001)*

