

Treasury ERS Paper Q&A



SuperCare

Your super
when you need it most

- 0.1 Do these proposed principles provide an appropriate guide to determine the nature and scope of the rules for early release under compassionate and financial hardship grounds, and for victims of crime compensation? If no, what should the principles be?

Yes for compassionate grounds.

- 0.2 Having regard to these principles, should early release of superannuation benefits generally be more or less difficult to obtain?

Principles should remain the same, except for the fact that currently, Policy is an internally generated process and unavailable to clients.

- 1.1 Should the assessment of financial capacity be made more prescriptive and/or objective? If so, how? What information might applicants need to provide?

Neither - assessment should continue to be a fair process and currently assessment only allows clients who meet specific criteria to apply accordingly.

- 1.2 What factors might be driving the increase in the amount of superannuation released on medical grounds and are these factors any cause for concern?

Increased cost of living, higher rates of obesity, cost of surgery is unaffordable at today's prices.

- 1.3 Do the current provisions for early release on medical grounds strike the appropriate balance between preserving income for retirement and providing assistance in times of genuine hardship? If no, what are the alternatives?

Yes clients who are suffering from a life-threatening illness, acute chronic pain or severe mental illness, are unable to work at full capacity and thus contribute to their Superannuation savings. Once treated they can again resume their contributions to their Superannuation.

- 1.4 Should there be a limit on the number of releases permitted within a certain timeframe (for example, 12 months) and/or should there be cashing restrictions on the amount released? If so, should there be different restrictions for different medical conditions?

No - all medical expenses vary in terms of cost and these expenses are not planned.

When recommended by Specialists treatment should not be denied.

1.5 Have you observed any trends in the types of treatments that are being funded by superannuation benefits and are these trends any cause for concern?

No - the real cause for concern is the cost of medical treatment surgery.

1.6 Are there certain treatments for which early release of superannuation should not be permitted? If so, what is the basis upon which these treatments should be excluded?

Cosmetic surgery unrelated to oncology, bariatric or other major surgeries that cause body deformity, pain and suffering. Any treatment that is not lawful in Australia.

1.7 When might ART (IVF) be necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance (in general - noting that this will depend upon the specific circumstances of each case)?

Mental disturbance and anguish is a common by product of fertility treatment for many IVF clients. Specialist reports support the recommended treatment for these clients.

1.8 When might bariatric surgery be genuinely necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance (in general - noting that this will depend upon the specific circumstances of each case)?

When a medical specialist has recommended Bariatric surgery as necessary and meeting the legislative requirements, it would be unethical to question the diagnosis of that specialist.

1.9 Should the rules explicitly require that the Regulator be satisfied that the amount claimed for a particular treatment is 'reasonable'? If so, what evidence might be relevant to that determination?

No, when you are provided with quotes from Specialist/Clinics who are treating clients, these should be sufficient to show actual costs for treatment. No two clinics are alike in terms of fees, specialists charge differently, as do hospitals and anaesthetists. The burden of proof should lie with the quote provided from a reputable clinic/specialist hospital, the quote is verified and that is the determination. Medically trained personnel are not reviewing these applications, therefore unable to make this determination.

- 1.10 Should there be an additional category of early release in respect of dental treatment? If so, under what circumstances should early release be available and should there be any limits or restrictions?

Dental treatment is often delayed due to the inability to afford treatment, causing dental conditions to worsen. Dental does not need its own category as it clearly falls into the current legislative requirements.

- 1.11 Should SIS Regulation 6.19A(3)(a)(ii) and (iii) be amended to refer to 'treatment' rather than 'alleviation' of acute or chronic pain? Alternatively, should those provisions be removed entirely (so that early access is only available where the individual's condition is life threatening)? What would be the consequences of this approach?

No current legislation should not be changed, any changes would cause a shift in clients not working and therefore not contributing to their superannuation and applying for assistance from Governments through other avenues.

- 1.12 Should the reference to a medical specialist in SIS Regulation 6.19A(3) be clarified to ensure that the practitioner is a specialist in the field most relevant to the condition being treated?

The specialist Doctors treating the client are qualified to make the recommendation for treatment, it should be noted that a GP has already referred the client to this specialist, so assessed twice by medical practitioners.

This determination is currently made by non-medically trained personnel.

- 1.13 Should the Regulator be entitled to seek a second opinion from an approved medical practitioner/s, or should the individual be required to obtain a reference from a list of approved medical practitioners, to ensure the objectiveness of the assessment?

No. The Regulator is not medically trained and the approved medical practitioners may not be experts in that particular specialty. Specialists are already assessing their patients and recommending a treatment plan, to question their recommendation is unnecessary.

- 1.14 Should early access to superannuation benefits to meet expenses associated with palliative care, death, funeral or burial be limited to where there is a dependency relationship? Why/why not? Could there be any unintended consequences from expanding this provision?

Current legislation allows for this provision, however the dependency definition is not sufficient to allow for all relationships (in 2018) where one person is dependent on another.

- 1.15 Should there be a maximum amount that can be released to meet a funeral expense? (For example, the amount that the Regulator considers reasonable).

No, funeral costs differ between providers and cultural differences will influence the amount a funeral will cost. Provided there is a legitimate quote provided by the funeral home, there should not be a limit.



- 1.16 Should early release of superannuation benefits be available to meet mortgage payments regardless of whether a person's name is on the mortgage title for their principal place of residence? What might be the implications of broadening the provisions in this way and what additional limitations might be required? For example, should release be limited to dependants or spouses or partners?
- 1.17 Is there a fundamental difference between meeting mortgage payments and meeting rental payments which would warrant a difference in treatment (for example, in respect of the asset available to mortgagees once all repayments have been made)? Or should early release on compassionate grounds be extended to include individuals who are unable to meet rental payments? If so, what evidence should be required and what should be the threshold for release (for example, in rental arrears or rental eviction notice)?
- 1.18 Are the current disability grounds fit for purpose, or should early release be extended, for example, to disability aids? If the latter, which expenses should be included, what evidence should be required, and should there be a cap on funds released?
- 1.19 Should individuals seeking early release of superannuation under disability grounds be required to demonstrate that they have sought assistance from other Government or non-Government programs prior to being approved? If so, how should this requirement be administered?
- 1.20 Should the Regulator's residual discretion in SIS Regulation 6.19A(1)(f) be removed? What would be the consequence of doing so?
- 1.21 Are there situations outside of the current compassionate grounds which may justify inclusion in the early release of superannuation provisions, balanced against the need to preserve superannuation benefits to provide income in retirement?
- 1.22 Should access to superannuation benefits be available to assist victims of domestic violence? Why /why not? If yes, under what particular grounds (for example, financial hardship, homelessness, victims of crime), which expenses should be included, and what evidence should be required?

- 2.1 Having regard to the necessary trade-off between simplicity, objectivity and flexibility, should the criteria for severe financial hardship be amended? If so, how? In particular, is there merit in expanding or contracting the 26-week rule and/or the definition of qualifying Commonwealth income support payments?
- 2.2 Should there be a prescribed standard of proof of being 'unable to meet reasonable and immediate family living expenses'? How can the legislation guard against non-genuine claims?
- 3.1 Should victims of crime be able to access a perpetrator's superannuation for compensation?
- 3.2 Should access to superannuation be limited to cases where a criminal conviction has been made?
- 3.3 Should access to a perpetrator's superannuation be available for compensation or restitution arising from all crimes, just violent crimes, or another threshold (such as the maximum penalty for offence)?
- 3.4 Should access to a perpetrator's superannuation only be available if the perpetrator made irregular or out of character contributions to superannuation to shelter assets?
- 3.5 How would a victim's right to a perpetrator's superannuation be enforced? How would the victim gain visibility over the perpetrator's superannuation assets?
- 3.6 How much of a perpetrator's superannuation should be available? Should the amount be different based on the perpetrator's circumstances (for example, low balances, dependent children)?
- 3.7 Should access to a perpetrator's superannuation be in the form of a lump sum, portions of income stream payments or both? How should defined benefit products and annuities that have not yet commenced payments be treated?
- 3.8 Should contributions into superannuation after a compensation order has been made count towards the amount that can be accessed?
- 3.9 Where a criminal conviction has been made, should victims be able to access a perpetrator's superannuation to pay either outstanding compensation or restitution orders?
- 3.10 Should State and Territory compensation schemes be able to recover the cost of their payments to victims from the perpetrator's superannuation?
- 3.11 In circumstances where there are concurrent family law and victim of crime compensation proceedings, how should these matters be addressed and prioritised? What other issues might arise?

The logo for SuperCare, featuring the word "Super" in a bold blue font and "Care" in a grey font, with a blue swoosh underline under "Care".

SuperCare

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