



**Submission on
Objective of Superannuation
Discussion Paper**

April 2016

About National Seniors Australia

National Seniors Australia is a not-for-profit organisation that gives voice to issues that affect people aged 50 years and over. It is the largest membership organisation of its type in Australia.

We give our members a voice – we listen and represent our members' views to governments, business and the community on the issues of concern to the over-50s.

We keep our members informed – by providing news and information to our members through our Australia-wide branch network, comprehensive website, forums and meetings, bi-monthly lifestyle magazine and weekly e-newsletter.

We provide a world of opportunity – we offer members the chance to use their expertise, skills and life experience to make a difference by volunteering and making a difference to the lives of others.

We help our members save – we offer member rewards with discounts from thousands of businesses across Australia. We also offer exclusive travel discounts and tours designed for the over-50s and provide our members with affordable, quality insurance to suit their needs.

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Overview

- National Seniors appreciates the opportunity to provide feedback on the objective of superannuation, including the precise wording that should be legislated.
- We believe legislating the objective can contribute to better retirement outcomes for older people by providing greater policy certainty and improving confidence in the superannuation system. However, certainty and confidence are not expressly mentioned in the Discussion Paper.
- The Federal Government needs to better articulate the intent of legislating the objective of superannuation on which the precise wording can then be based.
- We consider the proposal to legislate primary and subsidiary objectives for superannuation to be reasonable, provided these objectives are measurable and there is shared understanding across the community of the meaning.
- National Seniors believes the primary objective of superannuation should be aspirational and clearly state that superannuation is intended to supplement the Age Pension and other voluntary savings. The precise wording of the primary objective should include 'dignity in retirement', 'financial security', 'lifetime savings' and 'comfortable standard of living'.
- Subsidiary objectives are useful to the extent these are consistent with the primary objective and the interactions between objectives are thoroughly considered. There is insufficient detail in the Discussion Paper on the relevant considerations and implications for superannuation policy and regulations.
- We recognise that it is not possible to outline all the policy implications of the objectives, but more detail on procedures to assess compatibility of policies against legislated objectives is achievable. National Seniors recommends release of an exposure draft Bill with detailed explanatory notes to fill this void.
- How the Federal Government interprets and applies the objectives to make policy and regulatory decisions will ultimately determine the success of this process. The process of legislating the superannuation objectives must not retrospectively alter rules or indirectly affect the eligibility of the Age Pension for those near or in retirement.
- We urge the Federal Government to confirm what effect the legislated objective will have on interpreting existing superannuation regulations and future policy development processes.

Primary objective

National Seniors does not support the Financial System Inquiry (FSI) proposed objective of superannuation:

To provide income in retirement to substitute or supplement the Age Pension.

We believe the FSI recommendation:

- is too narrow and does not capture the third element of the retirement system, that is incentivised voluntary savings,
- lacks clarity on the threshold point at which the system moves from supplementing to substituting, which leads to disincentives for work and depletion of savings for those at the margins of eligibility for the Age Pension,
- exposes the supplementary role to politicking, with Age Pension eligibility rule changes having unintended consequences,
- introduces conflicting meaning as a long-term purpose with no incentive for greater self-sufficiency,
- provides no clear basis for measuring the effectiveness of the system, given a wide range of policies would be able to achieve either substitution or supplementary objective, and
- places too much emphasis on subsidiary objectives to guide policy and regulatory settings.

If legislating a primary objective as well as subsidiary objectives, then the primary objective should be aspirational and clearly describe the supplementary role of superannuation within the three-pillar retirement system. The primary objective should also give momentum to reforms that will improve the superannuation system's performance for the benefit of members.

National Seniors suggests the following wording for the primary objective of superannuation:

To ensure financial security and dignity in retirement through lifetime savings that, together with the Age Pension and other sources of income, provide a comfortable standard of living.

We believe a standard of living objective is more appropriate than an income objective because it requires consideration of the full spectrum of costs of living in retirement that aligns with retiree circumstances and preferences. It properly focuses on achieving a standard of living above the basic income provided by the Age Pension and creates incentives for mature-age workforce participation and higher voluntary savings.

National Seniors is amenable to varied wording for the primary objective as long as there is reference to:

- **'dignity in retirement'** that implies the need for superannuation to be in addition to the basic necessities afforded by the Age Pension,
- **'financial security'** to emphasise that managing risks in retirement should aim to improve overall wellbeing of retirees,
- **'lifetime savings'** so there is explicit recognition of superannuation as an investment made over long timeframes that necessitates stable policy settings for individuals to confidently plan for their retirement, and
- **'comfortable standard of living'** with a benchmark, such as ASFA comfortable standards, that is continuously reviewed to reflect changes to cost of living and lifestyle expectations of retirees.

National Seniors appreciates there is overwhelming consensus for legislating the objective of superannuation. However, we are concerned that the legislative effect and implications for superannuation policy development have not been thoroughly assessed.

Much of the current consensus on the need to legislate the fundamental purpose of superannuation is premised on this leading to greater policy certainty and improving confidence in the superannuation system. Yet, certainty and confidence are not expressly mentioned anywhere in the Discussion Paper.

The Discussion Paper is very lean and does not allude to what the implications of legislating the objective will be, or the advantages and disadvantages of the preferred approach. Other critical aspects including the timeframe and framework for implementation, progress tracking and periodic review are also missing.

We believe the Federal Government needs to better articulate the intent of legislating the objective of superannuation as part of this consultation process and, importantly, in the explanatory notes of the Bill, so there is a shared understanding across the community.

National Seniors:

- **does not support the FSI recommendation;**
- **recommends that the primary objective of superannuation be aspirational and clearly state that superannuation is intended to supplement the Age Pension and voluntary private savings; and**
- **recommends that the precise wording of the primary objective include ‘dignity in retirement’, ‘financial security’, ‘lifetime savings’ and ‘comfortable standard of living’.**

Subsidiary objectives

National Seniors requests further clarity on how subsidiary objectives will interact and complement the primary objective. We anticipate the primary objective will give some degree of permanency in legislation for the purpose of superannuation. However, the priority given by the Federal Government to any particular subsidiary objective is likely to shift over time.

The Discussion Paper does not consider these implications or the potential for conflict between the subsidiary objective and the primary objective. We consider the wording of the primary objective should be the decisive factor when developing superannuation regulation and assessing the compatibility of specific policies. The Federal Government must give an indication of which objective takes priority to the extent there are any inconsistencies. An alternative approach could be to frame the subsidiary objectives as a statement of principles.

Facilitate consumption smoothing over the course of an individual's life

National Seniors does not support legislating this subsidiary objective. It does not provide any additional guidance for policy or regulation as currently worded given superannuation is in essence, a consumption smoothing vehicle, trading off income during working life for consumption in

retirement. We prefer reference to ‘lifetime savings’ in the primary objective to signal individual responsibility for consumption smoothing beyond what is compulsory.

There is potential for misinterpreting this subsidiary objective as smoothing specifically during the retirement phase, which has implications for drawdown rates and creates a bias towards annuity products.

National Seniors believes the current minimum drawdown rates are already too rigid, ranging from 4 to 14 per cent depending on age, with those between the age of 65 and 74 required to withdraw at least 5 per cent of their super savings annually. Yet the safe withdrawal rate is estimated at 3.3 per cent for a retiree aged 65 expecting to live to age 90 with a balanced portfolio.¹

The minimum drawdown rates do not provide sufficient flexibility to respond in periods of declining market returns, puts pressure on retirees to invest in higher risk investments and can have the unintended consequence of making seniors reliant on the Age Pension in the later phase of retirement. There should be lower minimum drawdown requirements for account based income streams that reflect the actual returns available in the market, including term deposits and government bonds. Lower drawdown rates would facilitate the adoption of lower risk investment strategies that in turn, would better manage longevity and market risk.

Annuity products are underdeveloped in the market and may not represent value for money depending on individual circumstances. Annuities offer real potential if well integrated with health care and aged care needs, for example a retiree being able to fund their long-term health and aged care needs from the income of their annuity. However, retirement needs are diverse and annuity products are only part of the solution.

The policy implications of legislating this subsidiary objective are not clear and we seek further information from the Federal Government on its application. We see broad consequences, beyond just drawdown rates and annuity product bias, including for example:

- hinting at an income replacement rates approach for superannuation investment strategies during accumulation, which falls short of the more desirable wellbeing measures for investing,
- preference for voluntary savings through superannuation over other types of savings,
- treatment of housing equity as lifetime consumption smoothing vehicle,
- the choice of insurance policies within superannuation to smooth consumption between contingencies, and
- rules relating to preservation age and conditions for early access to superannuation.

National Seniors is receptive to alternative wording that specifically refers to choice and flexibility in the subsidiary objective together with explanatory notes on the intended application to superannuation policies.

National Seniors:

- **does not support legislating this subsidiary objective; and**

¹ Morningstar (2016), *Safe withdrawal rates for Australian retirees*
<http://www.morningstar.com.au/smsf/article/withdrawal-rates/7529/1>

- **suggests alternative wording be developed, reflecting choice and flexibility for retirees, for further consideration.**

Help people manage financial risks in retirement

National Seniors supports legislating this subsidiary objective. We consider the proposed wording appropriately captures the need for innovation in product design to satisfy the risk management needs of older people in the retirement phase as well as the vulnerability of consumers to complex financial matters, necessitating quality financial advice.

We seek further detail from the Federal Government on the application of this subsidiary objective in supporting the development of a Comprehensive Income Product for Retirement (CIPR). National Seniors believes there is considerable merit in a CIPR concept that is offered on an opt-in basis and does not lead to compulsion for retirees.

Protection of capital and flexibility of payment in retirement remains important. We note that an increasing proportion of people are retiring with mortgages and having access to superannuation as a lump sum to clear this debt is a sensible approach in these cases. There are also varied patterns of expenditure over a period of 25 years or more in the retirement phase and a lump sum withdrawal is legitimate to respond to these variations, including unexpected health costs.

Unlike the accumulation phase where individuals can be grouped into default MySuper products, the design features of a CIPR will need to be more sophisticated and complemented by quality financial advice, recognising that every retirement is different.

Research undertaken by National Seniors suggests older people become even more risk averse after they retire. Nearly 38 per cent of seniors surveyed indicated that they would not tolerate any loss in their retirement savings over a one-year period and only 13 per cent indicated they would tolerate a loss of 5 per cent or more in any one year.² The most important financial needs at retirement are meeting their medical expenses, having their income last their lifetime, and making sure their purchasing power keeps pace with inflation.

We suggest the legislative wording avoid reference to particular products (e.g. risk pooling products to manage longevity risks) to ensure there is no indirect bias towards particular financial products. The onus is on the financial services sector to come up with innovative solutions for the retirement phase that manage investment, inflation and longevity risks and this still needs to reflect the varying circumstances of retirees.

National Seniors supports legislating this subsidiary objective as currently worded.

² National Seniors Australia (2013), *Retirees' Needs and Their (In)Tolerance for Risk*, A report by National Seniors Australia and Challenger.

Be fully funded from savings

National Seniors supports legislating this subsidiary objective. We believe it:

- clarifies that an individual's total benefit in retirement is directly linked to contributions and investment earnings on superannuation assets,
- reinforces the need for robust regulation of the superannuation sector, and
- points to the need for contributions flexibility during the savings phase.

We note that unfunded liabilities have gradually declined in the superannuation sector, with defined benefit schemes now closed off to new members. Ensuring superannuation is fully funded into the future will ease public sector debt. National Seniors considers this to be reasonable but policies need to avoid sudden rule changes and allow sufficient adjustment time for those nearing retirement or already retired that have defined benefit schemes. We believe that legislating this subsidiary objective will require government policies to have some degree of stability and predictability over the long term so members can rationally plan for and maximise their retirement savings.

With consumers bearing all the investment risks, there is an implicit goal for regulation to give assurance to members that their contributions are secure. We see an alignment between this subsidiary objective and ASIC's existing consumer protection function. In order to achieve this subsidiary objective, policies would need to support more relevant information disclosure that enables meaningful fund comparison based on performance and benefit adequacy.

National Seniors seeks further clarity from the Federal Government on how legislating this subsidiary objective will guide policy that encourages contributions flexibility. We believe policies compatible with this subsidiary objective include gradually lifting the super guarantee rate to 12 per cent, the removal of age thresholds for superannuation contributions to encourage mature-age workforce participation, and flexibility on concessional caps that allow individuals to contribute higher concessional amounts into their fund when circumstances permit.

National Seniors supports legislating this subsidiary objective as currently worded.

Be invested in the best interests of superannuation fund members

National Seniors supports this subsidiary objective and believes it should be given prominence in the legislation by being listed as the first of the subsidiary objectives.

We believe an emphasis on the best interests of members is important given the increasing complexity of investment strategies and the trend in funds competing on service offerings, including financial advice.

Further detail is needed on how this legislated subsidiary objective will interact with the sole purpose test in the *Superannuation Industry (Supervision) Act 1993*. APRA notes that the legislated core purposes set down the reasons for which a fund may exist and pay benefits.³ In contrast, this

³ Australian Prudential Regulation Authority (2001), *The Sole Purpose Test, Superannuation Circular No.III.A.4*

subsidiary objective relates to how member contributions are invested. Policy settings will need to carefully consider the overlap between the fiduciary duty of superannuation trustees and the statutory duty of financial advisers to act in clients' best interest, especially in relation to scaled advice and outsourcing of superannuation fund service offerings.

Implicit in this subsidiary objective is heightened expectations for governance arrangements to demonstrate continued success in investment performance and give members confidence that their retirement savings are being appropriately managed. Policies and regulations compatible with this subsidiary objective would facilitate transparent practices for decision-making that manage real or perceived conflicts of interest and ensure investment is in the best interests of members. We believe legislating this subsidiary objective will encourage continuous improvement in governance in line with changing community expectations for superannuation fund management.

We prefer the 'pool of savings' or 'national savings' wording not being referenced explicitly in the legislation. A singular focus on best interests of fund members must be paramount. If in prioritising the best interests of fund members the portfolio allocations also happens to support long-term investment in infrastructure for example, then that is an advantage. We believe the wording of the legislation should leave open the possibility of superannuation being used for productive purposes.

National Seniors:

- **supports this subsidiary objective as currently worded; and**
- **recommends it be given prominence in the legislation by being listed as the first of the subsidiary objectives.**

Alleviate fiscal pressures on Government from the retirement income system

National Seniors does not support legislating this subsidiary objective. We believe it is inappropriate as it confuses purpose with outcome and suggests superannuation rules will constantly change for budget reasons.

Emphasising the Federal Government's financial contribution through the Age Pension and superannuation tax concessions leaves superannuation policy exposed to short-term budget cycles and ad hoc changes.

The 'alleviate fiscal pressures' wording in this subsidiary objective propagates the concept of ageing as a burden, which is unnecessarily negative. We believe this will undermine consumer engagement in the superannuation system and may even be counterproductive to incentivising savings if perceived by the community as government shirking its share of responsibility in the retirement income system.

Reduced reliance on the Age Pension would be an outcome of a more sophisticated and effective superannuation system, not an objective in itself. Moreover, if the system achieves benefit adequacy and is fully funded from savings (which we support as a subsidiary objective) then it will be fiscally sustainable and in turn, will reduce reliance on the Age Pension. The discussion on sustainability

must acknowledge that Australia spends 3.5 per cent of GDP on old age and survivor benefits, compared to the OECD average of 7.9 per cent.⁴

National Seniors highlights that the notion of the Age Pension as a social safety-net is quite confronting for older people who have not had compulsory superannuation and legitimately anticipated 'old age benefits' that were not considered part of the welfare system. We note these are valid concerns that should not be dismissed in the current policy debate.

We support greater self-reliance in principle but recognise that the Age Pension will remain a dominant factor in considering retirement income adequacy for the majority of retirees and especially those low-income earners and individuals with disrupted workforce participation. It is estimated that about 80 per cent of people retiring in 40 years time are still expected to rely on the Age Pension, although there will be a much greater proportion of part-pensioners.⁵ This shift in part-pension recipients is less expensive for governments and is in itself, a measure of success of the superannuation system.

There is a tension in minimising costs to government from super tax concessions and simultaneously trying to incentivise voluntary savings to encourage self-sufficiency in retirement. We believe that legislating this subsidiary objective will only confuse this tension. There is an enduring role for government in the retirement income system that needs to be positively framed.

National Seniors suggests an alternative subsidiary objective be developed based on the principle of fairness. This would give attention to intergenerational fairness, closing the gender gap in superannuation and ensuring the design and level of government contribution to the retirement system is well targeted and represents value for money.

National Seniors:

- **does not support this subsidiary objective, and**
- **suggests development of an alternative subsidiary objective that focuses on positively framing the government's contribution to the retirement income system on the basis of fairness.**

Be simple and efficient and provide safeguards

National Seniors supports legislating this subsidiary objective. In our view, the wording is ambitious with three distinct aspects that collectively, signal the need to improve performance of the superannuation system for enhanced retirement outcomes.

We see a 'simple' system as one that directly supports improved member engagement through disclosure of relevant information and financial literacy initiatives that deliver behavioural change. Simplicity of fund administration is also important in so far as it reduces expenditure required by funds for compliance and in turn, lowers fees for members.

⁴ OECD (2015), Pensions at a Glance 2015: OECD and G20 indicators, OECD Publishing, Paris. http://dx.doi.org/10.1787/pension_glance-2015-en

⁵ Commonwealth of Australia (2014), Towards Responsible Government – The Report of the National Commission of Audit.

The ‘efficient’ aspect of this subsidiary objective captures the need to lower fees but potentially has implications for default fund markets, shaped by the Productivity Commission’s current inquiry into the efficiency and competitiveness of superannuation. We infer by reference to ‘efficient’ in the wording (and the absence of competitive) that the focus in this context is on maximising the net, after-fee returns to members. In this way, we consider the wording to be useful.

We believe the ‘provide safeguards’ wording of this subsidiary objective reflects prudential supervision and member best interests, but also indicates consumer protection against retrospective policy changes. Compatible policies would establish grandfathering as a preferred approach when implementing changes to superannuation and lengthy adjustment periods where impacts on existing retirees are unavoidable.

The inclusion of all three aspects in the wording of this subsidiary objective suggests no one aspect will be given precedence, which we consider to be appropriate. There are potential conflicts for example, with policies that contribute to efficiency by offering investment choice within a fund for well-informed members, but also result in added complexity of fund operations. The current wording allows policy and regulatory settings to balance these potential conflicts on a case by case basis.

National Seniors supports legislating this subsidiary objective as currently worded.

Location of objective

National Seniors suggests the objective of superannuation be introduced as a stand-alone Act rather than including as a preface to the existing *Superannuation Industry (Supervision) Act 1993*. However, we do not hold a firm view on the location of the objective.

The success of this process will depend on the Federal Government establishing a shared understanding across the community on the intent of legislating the superannuation objective and how this objective will be applied in regulatory and policy settings. To this end, National Seniors recommends the release of an exposure draft of the Bill, with detailed explanatory notes, for further consultation.

There appears to be inconsistent messaging from the Federal Government regarding the impact of including an objective of superannuation in legislation. The Discussion Paper states the objective will be a “guide to the policy making process” but also states “it will not affect the interpretation or application of superannuation legislation by the courts”. This suggests the process to legislate the objective is tokenistic and unlikely to satisfy the current appetite for superannuation policy stability.

We urge the Federal Government to confirm its intent for legislating and what effect the legislated objective will have on interpreting existing superannuation regulations and future policy development processes.

Previous work undertaken in establishing core objectives and principles of superannuation confirmed the need to enshrine a ‘Super Charter’ in legislation to contribute to certainty and

stability.⁶ There was also recognition of the need to establish procedures to assess future policy and rule changes for compatibility against the Charter. National Seniors believes the intent of this work, including the proposed development of a confidence index to measure satisfaction with the system, remains relevant and should be leveraged in the current legislative process.

National Seniors recommends:

- **the objective of superannuation be introduced as a stand-alone Act, and**
- **release of an exposure draft Bill, with detailed explanatory notes to clarify the Federal Government's legislative intent.**

⁶ Commonwealth of Australia (2013), *A Super Charter: Fewer Changes, Better Outcomes, A report to the Treasurer and Minister Assisting for Financial Services and Superannuation*, <http://www.treasury.gov.au/supercharter>