**EARLY RELEASE OF SUPERANNUATION BENEFITS – UNDER COMPASSIONATE AND FINANCIAL HARDSHIP GROUNDS AND FOR VICTIMS OF CRIME COMPENSATION**

**Submission from:**

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# 1 about this submission

Choice, Consumer Action Law Centre, Financial Counselling Australia and the State and Territory financial counselling associations appreciate the opportunity to make a submission in response to this Treasury consultation. There is more information about each organisation of our organisations in Attachment 1.

Our organisations collectively interact with thousands of people each year. Apart from Choice, all of our organisations also provide financial counselling services. These organisations assist many people who are experiencing financial hardship and where early access to superannuation is an option to consider. All of our organisations are also involved in policy reform and advocating for a fairer marketplace to benefit consumers.

We believe that this consultation is timely because we consider that changes are needed to early access to superannuation to ensure ongoing equity. We have therefore made a number of recommendations for change which are listed throughout the submission.

Where the submission answers the questions posed in the consultation paper we have indicated the question number.

# 2 GENERAL COMMENTS

## **2.1 Ensuring uniformity of early access**

**A significant barrier can occur when people want to access their superannuation early on hardship or compassionate grounds only to find that their Superannuation Fund has specific rules preventing early access. This means that people may be forced to rollover their superannuation to another fund that does allow early access.**

**It is not in the public interest or consistent with sound financial literacy for people to be making superannuation fund choices on the basis of early access. This type of decision could lead to poorer returns and dissatisfaction with the new superannuation fund.**

**We contend that if early access to superannuation is going to be permitted that access should be permitted by all superannuation funds.**

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| **Recommendation 1: Early access to superannuation for hardship or compassionate grounds should be available for all superannuation funds.** |

## **2.2 Access should be streamlined and easy**

***Urgent access***

**Some early access to superannuation is time sensitive and needs to be processed urgently. Examples of access that may be urgent are for mortgage arrears, urgent medical treatment, funerals and palliative care.**

**It is important to set up a streamlined process with (shorter) set time frames to cover urgency depending on the access type. Further consultation is required to determine those appropriate time frames and to consult with industry about meeting the desired timeframes.**

***Making access easy and straightforward***

**Financial counsellors have reported problems with assisting their clients with access. We remain concerned that early access may be very difficult without any financial counselling assistance. People report real difficulties using MyGov because the process is complicated. It is not simple to get access to forms to make an application outside MyGov.**

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| **Recommendation 2: Certain types of early access to superannuation should be streamlined with set time frames to meet urgent access requests.** |

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| **Recommendation 3: Early access needs to be easy and straightforward. Accessibility options need to be tested for effectiveness.** |

## **2.3 Disclosure and warnings about early access**

**A key principle of the superannuation system in Australia is preservation. Early access to superannuation is an important financial decision. It should be accompanied by clear and effective mandated disclosure. Any disclosure should be tested to ensure it is effective.**

**In meeting that principle it is important that people receive disclosure about:**

* **The consequences of access including the reduction in compounding the returns on the available funds**
* **The tax treatment**
* **The availability of other options and details of those options**
* **The availability of financial counselling and how to contact a free financial counsellor by calling the National Debt Helpline on 1800 007 007**

**Disclosure is required to ensure that people who are getting their superannuation are making that decision as a last resort. It is undesirable for people to access their superannuation when their hardship or other need could have been resolved in another way that did not involve a reduction in their superannuation.**

**The disclosure needs to be timed to ensure it is provided at the optimal time for the person. The disclosure should be included in all paper forms and integrated into the MyGov process.**

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| **Recommendation 4:**  **That disclosure be developed by the regulator for consumers to provide critical information in an effective way. That disclosure must be tested to ensure efficacy.** |

## **2.4 Referral to a free financial counsellor**

**All people who are considering the early access of superannuation should be informed of the existence of free and independent financial counsellors as part of the disclosure outlined above. The disclosure should be included as part of the application process. People considering early access can be referred to the National Debt Helpline 1800 007 007** [www.ndh.org.au](http://www.ndh.org.au) **This number is staffed by qualified financial counsellors and provides free and independent advice on debts.**

**It is critical that people can consider all of their options in deciding whether to access their superannuation early. In many cases, the person may not know or be aware of other options to resolve their hardship, such as accessing creditor hardship schemes.**

**A common example where there are other more effective options is early access to superannuation for mortgage arrears (this is also discussed again below under housing). Lenders are required, under law and industry codes of practice, to have effective and reasonable policies to make repayment arrangements on the grounds of hardship. If the lender does not agree to a reasonable repayment arrangement that decision can be reviewed and determined by an External Dispute Resolution scheme.**

**A repayment arrangement with the capitalisation of any arrears is a far more effective way to resolve mortgage hardship than accessing super. A financial counsellor can assist a person to access a reasonable repayment arrangement and to negotiate hardship arrangements.**

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| **Recommendation 5: People accessing superannuation should receive clear information and contact details to see a free financial counsellor through the promotion of National Debt Helpline 1800 007 007** |

## **2.5 The taxation of early access to superannuation**

**We contend that the current taxation on early access to superannuation is excessive and unfair. The current arrangement effectively means that superannuants in financial difficulty are paying 35% taxation should they receive monies paid under financial hardship or compassionate grounds. People accessing superannuation early are in financial hardship and often desperate for the money. Many people who access superannuation early are on low incomes (and do not pay any tax) or even middle incomes where they pay a lower tax rate.**

**We believe that the taxation rate, on release, should be reduced to nil in those circumstances to enable people to maximise the amount to resolve their hardship. This would also acknowledge that the people accessing the money are often on a lower tax rate or not paying any tax at all (as their income falls below the threshold).**

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| **Recommendation 6: The taxation on early access to superannuation on compassionate and financial hardship grounds be reduced to nil.** |

## **2.6 Early release based on life threatening illness**

**It is acknowledged that there is a right to access superannuation early if a person has a terminal illness and they are likely to die in 24 months. The original time required was 12 months and that was changed to 24 months in 2015. At the moment, people need to obtain confirmation from two doctors that the illness is terminal within 24 months. It can be difficult to obtain this confirmation from doctors as predicting the timing of a terminal illness can be difficult to judge.**

**This provision does not assist people who have a life threatening illness that will substantially shorten their life. Specifically, we refer to those people who will never live to the preservation age because of their life threatening illness. People with an illness that is aggressive or advanced may need to access their superannuation earlier to use some of the money for needs and wants when facing a deteriorating quality of life.**

**We suggest the following criteria apply to early access for people with life threatening illness that will substantially shorten their life:**

* **the person is not expected to live to their preservation age;**
* **the chronic illness and life expectancy is confirmed by two doctors; and**
* **the person is able to access up to 50% of their superannuation to meet ongoing needs**

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| **Recommendation 7: There should be provisions for early access to superannuation of a portion of funds when a person has a chronic illness that will substantially shorten their life and they will not live to reach the preservation age.** |

## **2.7 Protecting against exploitation by 3rd party intermediaries**

**We are concerned about the possible exploitation of people by third party intermediaries who charge a fee for arranging early access to superannuation. We have seen this become a problem in financial services. In particular, people (who may be in desperate circumstances), are charged a fee to access their superannuation.**

**There have already been problems identified with commercial entities misleading people that they can access their superannuation early by opening a SMSF.**

**We contend that it is essential that strong protections are put in place to minimise the harm that comes from this.**

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| **Recommendation 8: That third parties be prohibited from charging a fee for providing advice or services in relation to obtaining early access for superannuation.** |

# ****3 PRINCIPLES UNDERPINNING EARLY RELEASE****

**We generally support, subject to our comments below, the four guiding principles for the review.**

## **3.1 (Question 0.1) Do the principles provide an appropriate guide to determine the nature and scope of the rules for early release?**

**The only guiding principle that we would contend should be changed is the principle of genuine hardship. Our objection is to use of the word ‘genuine’. There are several problems with using this loaded word:**

* **The word ‘genuine’ does not add any further detail to the word ‘hardship’. Hardship should be judged on its own facts which are that the person is in hardship as defined.**
* **The use of the word implies that people are faking hardship, gaming the system or fraudulently inventing hardship. The experience of financial counsellors and the welfare sector is that the overwhelming majority of people want to pay their bills but can’t, which leads to financial hardship. The presumption should be that people who say they are in hardship are in hardship.**
* **There is a verification process in place where evidence is produced. If the person does not meet those criteria they are not in hardship. The issue of ‘genuine’ is irrelevant and unnecessary.**
* **The Treasury paper seeks responses to a range of questions that are mostly objective in their enquiry. The use of the word ‘genuine’ is subjective and value laden and therefore inconsistent with the paper itself**
* **As an example, there is no mention of the word ‘genuine’ in the financial hardship provisions in the Credit Law**[[1]](#footnote-1) **and the Code of Banking Practice**[[2]](#footnote-2)

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| **Recommendation 9: The word ‘genuine’ is deleted from before hardship as a guiding principle and not used at all.** |

## **3.2 (Question 0.2) Should early release of superannuation benefits generally be more or less difficult to obtain?**

**Accessibility should remain as it is (that is not more difficult to obtain) subject to our comments below. We believe that each access request should be determined subject to transparent criteria and determined on its merits.**

# ****4 EARLY RELEASE ON COMPASSIONATE GROUNDS****

## **4.1 (Question 1.1) Should the assessment of financial capacity be made more prescriptive and/or objective?**

**We do not support any change to the assessment of financial capacity. Only basic information should be required to show a lack of financial capacity to pay for the expense as it falls due. The test for mortgage arrears is also evidenced by correspondence from the mortgagee and implicitly that should satisfy the regulator to make a decision under this ground.**

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| **Recommendation 10: We do not support any change to make the assessment of financial capacity more prescriptive than it is currently.** |

## **4.2 Release on medical grounds**

**We do not propose to comment in any detail on this point. We do observe that further investigation is warranted of the rapid increase in claims. In particular, any investigation should assess whether the rapid increase is being caused by any inherent conflict of interests in the current processes.**

## **4.3 (Question 1.10) Dental treatment**

**Financial counsellors regularly encounter clients who are unable to afford dental treatment or are forced into financial hardship to afford dental treatment. Dental treatment is not covered by Medicare and can be very expensive.**

**There is evidence**[[3]](#footnote-3) **that:**

* **Poor oral health is significantly associated with major chronic diseases;**
* **Poor oral health causes disability; and**
* **Oral health issues and major diseases share common risk factors.**

**We would also add that poor oral health can make it difficult to function in society or gain employment.**

**It would be preferable that dental care was covered by the Government for those people who cannot afford it. However, if that is not available people should be able to access their super to prevent major chronic disease and/or disability.**

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| **Recommendation 11: Dental care should be able to be accessed under compassionate grounds to avoid illness and disability associated with untreated dental problems.** |

## **4.4 Palliative care, death, funeral or burial expenses**

**We consider that this ground of release should be considerably expanded to meet the needs of people who have these expenses and cannot afford to pay them.**

**Palliative care expenses need to be streamlined for access as often the need for palliative care can be urgent following a rapid deterioration in health. Palliative care is vital end of year care which eases suffering.**

**Funerals and burials are also necessary expenses. For people in financial hardship or on low incomes they are an expense that must be met when the person can find it almost impossible to raise the money. There is very little access to payment arrangements with funeral homes.**

**There are essentially three scenarios where early release of superannuation would be beneficial:**

1. **To pay for your own funeral**
2. **To pay for a dependant’s funeral**
3. **To pay for an extended family when this has significant cultural significance (for example, Aboriginal and Torres Strait Islanders)**

***Your own funeral***

**Financial Counselling Australia, Consumer Action Law Centre and Choice have all been a part of a long-standing consumer campaign that argues that funeral insurance is junk insurance.**[[4]](#footnote-4) **There are particular problems with the mis-selling of insurance in Aboriginal and Torres Strait Islander communities.**[[5]](#footnote-5) **Many people would not need funeral insurance if there was a streamlined system to access superannuation in the event of your own death. People should be able to set up the early access prior to their death and provide authorities on who can access the set amount of money on an urgent basis after their death.**

**Having a system to use superannuation for funerals would give many people peace of mind about funeral costs and be a low cost and effective way to use super when a person is concerned they will not be able to afford their own funeral.**

**In summary the process would work as follows:**

1. **The person contacts their superannuation fund to ask that they be able to access their superannuation to pay for their funeral in the event of their death**
2. **Their superannuation fund sends a form to sign that sets up the instruction to access their superannuation in the event of their death, who is authorised to access the superannuation, with an amount set to cover the funeral.**
3. **In the event of the person’s death that authority is produced by the authorised person with evidence of the death.**
4. **Payment is made urgently within five days to enable the funeral costs to be paid.**

**This would give people peace of mind about their funeral being paid from their own superannuation.**

***Dependant’s funeral***

**We support maintaining early access to superannuation to pay for the funeral of a dependant.**

***The funeral of direct (non-dependant) and extended family members***

**People may have both ethical and cultural obligations to pay for the funeral of a non-dependant family member.**

**Some common examples are:**

1. **The funeral of a parent, sibling or adult child**
2. **The role of kinship in Aboriginal funerals and tombstone ceremonies in Torres Strait Islander communities**
3. **Cultural norms in many cultures have an increased expectations of a funeral that follows cultural traditions (which may mean increased cost) and contributions from family members.**

***Cultural norms and considerations***

**In considering cultural issues, we consulted with members of various multicultural organisations and we are most grateful for their generosity in sharing their reflections for the purposes of this submission.**

Community leaders stated that there are regular fundraising events on ethno-specific community radio or newspaper to support individuals/families who are going through serious illness and struggle as a result of financial hardship. Put simply, there is very limited access to funds in Australia for the sick person or for the family to cover medical costs/funeral costs.

If the dying person can access their super early, the benefits include:

* Peace of mind for the dying person by knowing that he/she is not putting his family in a financial difficulty or hardship;
* Preserving his/her family dignity because they don’t need to rely on community or any third party for financial support;
* If the person or the family wants their extended family to be with them during this time, having access to funds gives them the opportunity to family members from country of origin. This will provide closure and help with the healing process;
* Capacity to travel overseas to visit family and visit the holy land;
* Compassionate situations with regard to people who are newly arrived who might have a death or serious illness within family and need to fund treatment or travel back home to be with their family;
* In light of new 10 year visas for parents who may be aged and frail and might have final wishes to be buried/cremated in their home country.

The above situation and expectations are common across migrant communities. Discussions with members from the Chinese, Serbian (applicable to other Balkan community members), Indian, Sudanese (similar expectations apply in the Congolese, Somali & Liberian) and Assyrian (applicable to Middle Eastern Community both Christian & Muslim) community members have reinforced the need to have access to superannuation. There is an expectation that particular cultural rituals and practises are adhered to which amount to large amounts of financial burden. In some communities that can include funeral costs, three days post death ritual, seven day post death ritual, 40 days, six month & 12 month post death rituals. Within the Islamic community there are additional pressures as the burial needs to occur within 24 hours leaving no time for the family or community to raise funds.

In most CALD communities, death is seen as a sombre occasion rather than a celebration of life and people do not plan for this occurring. Shame and stigma associated with asking for monetary help is rife in these communities. Older migrant community members do not normally have access to credit cards therefore precluding them from accessing and purchasing necessary items immediately.

**In the above circumstances, the access rules need to be changed to ensure that those policies are inclusive and recognise the important role of funerals in our society.**

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| **Recommendation 12: Superannuation should be available for your own funeral with a streamlined process and clear conditions for access.** |

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| **Recommendation 13: Superannuation should be available to pay for a dependant’s funeral.** |

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| **Recommendation 14: Superannuation should be available for extended family members that are not dependants.** |

## **4.5 Housing grounds**

**We agree that a key consideration for the release of superannuation for housing grounds is that the release should contribute a long term financial asset which also assists the person to maintain security of tenure (in housing).**

***(Question 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?***

**We do not support access to superannuation when a person is not on the mortgage title. This would be counter to the principles behind the release being to build a long term financial asset.**

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| **Recommendation 15: Early access to superannuation should only be available to the actual owners of the home.** |

***(Question 1.17) Is there a fundamental difference between mortgage payments and meeting rental payments?***

**We believe there is a fundamental difference between a mortgage and a rental agreement, that being lack of security of tenure. Currently, in Australia there is no security of tenure with private rental agreements. Tenants can be given notice and asked to leave for no reason. It is arguable that public housing provides a higher level of security of tenure, however it is also arguable that public housing may have more flexible hardship arrangements.**

**In the current rental environment even if rental arrears were paid in full from early access to superannuation it does not follow that the tenant will be able to stay in their home. We do note that if there was better security of tenure for tenants with long term leases (which are available in some overseas countries) then access to early release of superannuation for tenants should be reviewed and included as a matter of equity.**

**We also note that this proposal would be likely to be impractical in an administrative sense, with lessors/real estate agents being unwilling to wait for the early release process to play out as it could take a number of weeks. As noted above, even if the lessor was prepared to wait, there may be situations where the person would overtake their arrears but the lessor then removed them anyway under the “no grounds” for termination that exist in State residential tenancy legislation.**

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| **Recommendation 16: Early access to superannuation should not be available for rental arrears.** |

***Other issues relating to access to pay mortgage arrears***

**Financial Counselling Australia supports early access to superannuation for mortgage arrears. In supporting this position, we wish to make the following comments to argue that there needs to be an increased level of objectivity as part of the decision-making process by the regulator.**

**Australia has strong laws relating to making repayment arrangements on the grounds of financial hardship for home mortgages.**[[6]](#footnote-6) **People have the right to have a decision to reject an application for a repayment arrangement on the grounds of financial hardship reviewed and determined by either a Court or an external dispute resolution scheme.**[[7]](#footnote-7)

**In circumstances where the borrower can demonstrate affordability of the payments going forward, then it would be reasonable to request a repayment arrangement where any arrears are capitalised and the term of the loan extended. Where the arrears are less than six months this would be a reasonable and fair outcome in the vast majority of circumstances, without needing to access superannuation. Early access to superannuation for mortgage arrears should therefore be a last resort. It is noted that the largest external dispute resolution scheme, the Financial Ombudsman Service in its guide called the “FOS Approach: Early Release of Superannuation**[[8]](#footnote-8) **states in summary:**

*Early superannuation release to repay arrears should be considered only as a last resort. Even though the borrower may have requested a release, there will generally be other ways of better assisting them. FSPs should ensure that they fully explore all options for assistance with the borrower.*

*(FSP – Financial Services Provider)*

**We are aware of anecdotal evidence from financial counsellors that borrowers are accessing superannuation for mortgage arrears and still losing their home within a few months. We are not aware of any data available on this point but we believe that this does need to be investigated. If people are accessing their superannuation only to lose their home anyway, then this would be evidence that this early access provision needs revision.**

**We are also aware of systemic issues where lenders refuse to capitalise arrears on a mortgage and instead insist or suggest that the person access their superannuation to pay their arrears. This is despite the fact that the Code of Banking Practice explicitly states that banks will not require a borrower to apply for early release from their superannuation.**[[9]](#footnote-9)

**We contend that further problems can occur when:**

* **the lender has failed to reasonably negotiate a repayment arrangement on the grounds of hardship where the borrower can afford the repayments going forward and the only issue left to resolve is the arrears; or**
* **the borrower should not be accessing their superannuation at all as they simply cannot afford the repayments going forward and the superannuation is only being accessed in a situation of desperation to try and save the home (which is unlikely to work).**

**We believe that there needs to be evidence provided where:**

* **the lender confirms that they have reasonably considered a variation on the grounds of financial hardship including capitalising the arrears; and**
* **that there is a verification that the borrowers can afford the usual ongoing repayments; and**
* **the borrower has unsuccessfully complained to an external dispute resolution scheme.**

**We suggest developing a standard form for both parties to use to streamline the process and collect any required information.**

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| **Recommendation 17: Access to superannuation for mortgage arrears should include a certification from the lender that they have reasonably considered a repayment arrangement on the grounds of financial hardship (including capitalising the arrears and extending the term of the loan) and verifying affordability of the ongoing repayments.** |

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| **Recommendation 18: A standard form should be developed for both parties to use.** |

## **4.6 Victims of Domestic Violence**

***(Question 1.22) Should access to superannuation be available to assist victims of domestic violence?***

**Most of the 800 financial counsellors across Australia have assisted (mostly) women impacted by family violence and economic abuse. Additionally, there are also specialist family violence financial counsellors that work exclusively with people affected.**

**Financial Counselling Australia (FCA) is currently providing training to financial counsellors across Australia to improve the skills of financial counsellors when assisting victims of domestic violence. FCA is also developing a protocol and finalised a financial safety checklist to resource financial counsellors.**

Financial abuse resulting from family violence can have a devastating impact on personal safety, health, relationships and the ability to cope with day to day life for victims and their children.

Implications for the victim’s short and long term finances and survival include:

* re-establishment costs to cover housing, safety, transport, relocation, schooling and children’s needs;
* debts in the victim’s name but incurred by the perpetrator;
* debts in joint names where the victim receives no benefit;
* loss of income due to inability to maintain employment; and
* expenses incurred due to increased security measures.

**It is our strong view that the Government should ensure that victims of domestic violence should have adequate access to financial assistance and housing to ensure safety and provide the ability for victims to re-establish their lives. It is with concern that we note that financial assistance remains inadequate in most jurisdictions.**

**We also acknowledge that on reaching preservation age the balance of superannuation funds for women is less than men. Any call on these funds threatens what is accumulated on retirement.**

**However, we believe that on balance there is a compelling case where compassionate grounds should be extended to family violence victims/survivors to assist with the necessary costs of relocation to ensure safety. Safety can be a life or death issue and a person must not remain unsafe merely because there is inadequate financial assistance.**

In respect to an objective test, we recommend a process that:

* does not allow for a perpetrator to extend economic abuse; and
* does not add further stress to the victim to prove their vulnerability and abuse.

In particular, if early access is granted on the grounds of domestic and family violence that safeguards are put in place to ensure the perpetrator does not get access to the money including that the money is paid into an account in the name of the person seeking access and where possible the money is paid to a specific service provider.

We propose that a domestic and family violence order or a report by a support worker, medical practitioner or police, along with costings associated with providing effective safety measures be included as part of the process for early release on compassionate grounds for family violence.

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| **Recommendation 19: Victims of domestic violence be able to seek early access to superannuation on compassionate grounds to pay for costs associated with protecting their safety.** |

# ****5 PART 2: EARLY RELEASE ON THE GROUNDS OF FINANCIAL HARDSHIP****

## **5.1 (Question 2.1) Should the criteria for severe financial hardship be amended?**

**We contend that the 26-week rule should be amended to provide more flexibility in proving severe financial hardship so that people are not unfairly denied access. We contend that the rule should be amended to a requirement to meet either:**

1. **13 weeks of Centrelink income (with all types of Centrelink income included); or**
2. **26 weeks of Centrelink income payments as evidenced over a 12-month period; or**
3. **Evidence that the applicant has had no income or a very low income of under $15,000 p.a. for 13 weeks.**

**We also contend that people who do not qualify for Centrelink should also be able to access their superannuation on the grounds of severe financial hardship including but not limited to:**

* **Citizens of New Zealand**
* **Prisoners**
* **Asylum seekers**

**The reasoning behind this proposal is as follows:**

* **Severe financial hardship can be evident after three months. Providing access earlier could alleviate that financial hardship becoming even more entrenched.**
* **Many people have sporadic casual work that means that they may find it very difficult to accumulate 26 weeks of continuous Centrelink payments. However, they can still be in severe financial hardship over the year and should not be denied access.**
* **There are people who have no income or a low income and remain in severe financial hardship. The presumption that everyone without income can access Centrelink payments is completely inaccurate. It is essential that people on very low incomes and in severe financial hardship still have early access to superannuation when there is need.**

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| **Recommendation 20:**  **The 26-week rule should be amended to require the applicant to meet any of the following criteria:**  **1. 13 weeks of Centrelink income OR**  **2. 26 weeks of Centrelink income payments over a 12-month period OR**  **3. Evidence of no income or a low income under $15,000** |

## **5.2 (Question 2.2) Should there be a prescribed standard of proof of “being unable to meet reasonable and immediate family living expenses?**

**We do not believe there should be a prescribed standard of proof. If there is going to be a prescribed standard it should be at a low bar. Being on a very low income and receiving Centrelink benefits often means ongoing financial hardship. For example, a majority of people receiving NewStart payments fell below the poverty line (55%).**[[10]](#footnote-10)

# ****6 VICTIMS OF CRIME COMPENSATION****

**We have no comment on this issue.**

**Attachment 1 – About each of our organisations**

**Choice**

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. By mobilising Australia’s largest and loudest consumer movement, CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

**Consumer Action Law Centre**

Consumer Action Law Centre is an independent, not-for-profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

**Financial Counselling Australia**

FCA is the peak body for financial counsellors in Australia. FCA’s member groups are the seven State and Territory financial counselling associations. FCA is the national voice for the financial counselling profession, providing resources and support for financial counsellors and advocating for people who are financially vulnerable.

**State and Territory Financial Counselling Associations**

The State and Territory financial counselling organisations are:

* Financial Counsellors ACT
* Financial Counsellors Association of New South Wales
* Financial Counsellors Association of Queensland
* South Australian Financial Counsellors Association
* Financial Counselling Tasmania
* Financial and Consumer Rights Council (Victoria)
* Financial Counsellors Association of Western Australia

These organisations are member-based bodies. They support financial counsellors in their jobs by providing professional development opportunities, acting as an information hub to disseminate information and advocating for changes that benefit either financial counsellors or their clients.

Financial counsellors assist people experiencing financial difficulty. Working

in community organisations, they provide advice to help people deal with

their immediate financial situation and minimise the risk of future financial

problems. Their services are free, confidential and independent.

Financial counsellors need an in-depth knowledge of credit law, bankruptcy

law, debt collection law and practices, industry hardship processes and

government concession frameworks.

Financial counselling agencies are exempt from holding either a Credit

Licence or an Australian Financial Services Licence as long as they meet

certain criteria, including that the services are free and staff are adequately

trained.

There are 800 financial counsellors employed throughout Australia. They work in welfare organisations, community legal centres and community health centres.

1. Section 72 of the National Credit Code (being Schedule 1 of the National Consumer Credit Protection Act 2009 (Cth). [↑](#footnote-ref-1)
2. Section 28 Code of Banking Practice 2013 [↑](#footnote-ref-2)
3. *Links between oral health and general health – the case for action*¸ Dental Health Services Victoria at https://www.dhsv.org.au/\_\_data/assets/pdf\_file/0013/2515/links-between-oral-health-and-general-health-the-case-for-action.pdf. [↑](#footnote-ref-3)
4. See Choice article – Do I need funeral insurance (last updated 24 May 2017) at https://www.choice.com.au/money/insurance/life/articles/funeral-insurance [↑](#footnote-ref-4)
5. See for example ABC News report: “Babies among thousands of Aboriginal children signed up to ‘shocking’ funeral insurance schemes” at http://www.abc.net.au/news/2015-11-21/aboriginal-babies-being-signed-up-to-shocking-insurance-schemes/6958342 [↑](#footnote-ref-5)
6. Section 72 of the National Consumer Credit Protection Act 2009 and Section 28 Code of Banking Practice [↑](#footnote-ref-6)
7. Financial hardship is covered by the Financial Ombudsman Service Terms of Reference and the Credit & Investments Ombudsman Rules. [↑](#footnote-ref-7)
8. See https://www.fos.org.au/custom/files/docs/the-fos-approach-to-early-release-of-superannuation.pdf [↑](#footnote-ref-8)
9. Code of Banking Practice Section 28.9(a) [↑](#footnote-ref-9)
10. Page 7, Poverty in Australia 2016, Social Policy Research Centre available at http://www.acoss.org.au/wp-content/uploads/2016/10/Poverty-in-Australia-2016.pdf [↑](#footnote-ref-10)