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Early Release Review
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600
Email: superannuation@treasury.gov.au

Early release of superannuation benefits – under compassionate and financial hardship grounds and for victims of crime compensation

Please find enclosed our submission in relation to the early release of superannuation benefits.

Should you require further information in relation to our submission, please do not hesitate to contact me on (02) 4948 3691 or adam.shultz@mine.com.au

Kind regards,

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Mine Super



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Submission by Mine Super

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About Mine Super

Mine Wealth + Wellbeing Superannuation Fund (**Mine Super**) is a profit to members, public offer superannuation fund dedicated to serving the retirement needs of all Australians. Mine Super (formerly known as AUSCOAL Superannuation) has been delivering exceptional retirement outcomes to members for 75 years. Mine Super offers its members a comprehensive range of superannuation and pension products in addition to insurance and access to financial advice. Mine Super was awarded a Platinum rating by SuperRatings along with Chant West's Five Apples for both super and pension products in 2017. Mine Super employs over 175 staff and manages approximately \$11 billion in assets for more than 63,000 members.

Executive summary

Mine Super welcomes the opportunity to provide a submission to the Treasury in relation to its issues paper discussing the early release of superannuation benefits (**Issues Paper**). We hope that this submission (**Submission**) is afforded adequate consideration and assists government in its enquiry.

The following is an outline of the key points contained within this Submission:

- Mine Super encourages the government to prioritise legislating the proposed primary objective of superannuation.
- Mine Super contends that any changes recommended by the Productivity Commission (**PC**) in relation to default insurance within superannuation should not be considered in isolation. Any changes will have significant impacts on superannuation funds through increased requests for early access of superannuation and substantial implications for the welfare system.
- Mine Super supports measures that provide a more objective test in relation to compassionate grounds requests.
- Clear reasons for release under compassionate grounds should be outlined to the fund (which would assist trustees in exercising their ultimate discretion in determining to release the member's superannuation).
- Mine Super recommends that all monies released should be made by direct payment to the provider of the service (medical experts, funeral directors, home loan providers among other providers).
- Mine Super believes that the release of superannuation for medical purposes should meet the minimum threshold of treating a life-threatening condition.
- Mine Super believes that (in circumstances where a property loan is in default) release of superannuation should be restricted to a member who is listed on the mortgage title. Further to this, we believe that the payment of rent is already captured under the current financial hardship assessment criteria.
- Mine Super believes that the Australian Taxation Office (**ATO**) is best equipped to conduct an assessment for the early release of superannuation on severe financial hardship grounds. While we are supportive of strict requirements, we also believe that the 26-week rule should be contracted and flexibility provided when temporary employment occurs during this period.
- Mine Super does not believe that it is appropriate to fund victims of crime from superannuation.

Mine Super believes that the government (federal, state and territory) should fund health and victims of crime cases independently of superannuation. The superannuation system is not adequately equipped to provide for all difficult circumstances that participants may experience throughout their working lives. Weight loss surgery and dental care (among other serious ailments) referred to in the

Issues Paper should be priorities for government funding and not fall on the individual to fund through their superannuation.

Mine Submission

In this Submission, we propose to provide information in relation to:

- principles underpinning early release;
- early release on compassionate grounds;
- early release on the grounds of severe financial hardship; and
- victims of crime compensation.

Principles underpinning early release

Mine Super regards the proposed guiding principles of preservation, genuine hardship, last resort, and fair and effective administration as appropriate. We are of the view that the early release of superannuation should be generally difficult to obtain and recommend increased guidance on assessment for trustees to ensure consistency of applications across all funds.

Mine Super encourages the government to prioritise legislating the proposed primary objective of superannuation as “*providing income in retirement to substitute or supplement the age pension*”.¹ Providing a clear and concise objective of superannuation should minimise multiple early release applications which could be perceived as enhancing lifestyle and undermine the core purpose of the superannuation industry.

The PC is currently assessing the need for default insurance (Life, Total Permanent Disability (TPD) and Income Protection (IP)) within superannuation. It is estimated that the current arrangements save the government billions of dollars per annum in welfare payments and support. Any changes that are made to default insurance will ultimately have a significant impact on requests for early release of superannuation. It is imperative that the government consider proposed changes to the early release of superannuation in a holistic manner and not in isolation.

Early release on compassionate grounds

Mine Super supports measures that provide a more objective test in relation to compassionate ground requests. Between 1 July 2010 and 15 January 2018, 770 claims were made by Mine Super members on compassionate grounds totalling \$13.7m.

The administration process in relation to early release could be simplified if the ATO provided a SuperStream message to the fund, instead of a Department of Human Services (DHS) letter which notifies the fund to release a specific amount on compassionate grounds. Clear reasons for release under compassionate grounds should be outlined to the fund. This would assist the trustee in exercising their ultimate discretion in determining to release the member’s superannuation.

At present, there is a concern that in some cases the evidence that members provide for a release under compassionate grounds is identical to the evidence provided under a financial hardship claim. This raises concerns that the payment to the member may not be currently used for the reasons the

¹ Superannuation (Objective) Bill 2016,
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1617a/17bd069#_Toc473795053



money is released. This risk could be mitigated by releasing payments directly to service providers (medical expert, funeral director or home loan provider) depending on the nature of the compassionate grounds claim.

We are of the view that any release of superannuation should meet the minimum threshold of treating a life-threatening condition, be requested by a medical specialist with expertise in the field of the members' condition and be objectively applied across all funds in the superannuation industry. The practice of doctors and medical professionals promoting themselves as specialists who can assist patients in accessing their superannuation for medical ailments is concerning. We believe that the regulator should be entitled to seek a second opinion from an approved medical practitioner (which is not dissimilar to the current approach for release of SIS Permanent Incapacity requirements).

Mine Super recommends a pragmatic approach in relation to payments to dependents and associated family members to assist with funeral and burial arrangements. The majority of issues could be resolved by funds being required to make payment directly to funeral and burial providers. This would ensure the amount released is used for the intended purpose.

Mine Super believes that the release of superannuation should be restricted to a member who is listed on the mortgage title. This ensures that dependents, spouses and de facto partners are not pressured or coerced into using their superannuation to contribute towards an asset that is subject to mortgage stress (and that they may not hold ownership rights to). Retirees are increasingly accessing their superannuation to pay off their mortgage given the high cost of housing. We believe that there is a nexus between a home loan, the age pension asset test and superannuation which should be maintained. Mine Super contends that this should not be extended to accessing superannuation for rental payments. Superannuation payments for purposes including rent, rental bonds, everyday living expenses and costs associated with homelessness, are currently dealt with under the financial hardship assessment.

Mine Super believes that medical transport should be funded by Medicare, private health funds and the National Disability Insurance Scheme (**NDIS**), where appropriate. Disability and medical grounds (including transport) for early release of superannuation cannot be reviewed in isolation (with the significant link to TPD and IP to be considered carefully). If the government implements changes in regard to insurance within superannuation, there will be an additional burden placed on superannuation funds through requests for the early release of member's money and substantial impacts on the welfare system. Any change could have significant societal impacts.

Access to insurance (and group insurance in particular) is critical to the financial wellbeing of all Australians and their families. Insurance acts as a safety net from the significant impacts that can occur from disability or loss of income to members with dependents or large financial obligations.

If a member is severely disabled, they can currently secure a SIS release. Mine Super believes that the regulator's discretion should be maintained in granting early releases, however, this discretion needs to continue to be applied consistently.

Mine Super is not supportive and does not believe it is appropriate to fund victims of crime from superannuation. There is no nexus between this proposal and the proposed purpose of superannuation. We strongly encourage government (federal, state and territory) to work collaboratively to properly fund these initiatives independently of the superannuation system.



Early release on the grounds of severe financial hardship

Mine Super believes that the ATO is best equipped to conduct an assessment of the early release of superannuation on severe financial hardship grounds. This would replicate the process of assessment that is made on compassionate grounds. It is our recommendation that a SuperStream notice be provided to the fund in requesting them to release the funds after specifying clear reasons for their determination.

Mine Super supports the strict requirements imposed on accessing superannuation on the grounds of severe financial hardship. However, we believe that the 26-week rule should be contracted to assist in alleviating immediate hardship. If a member can obtain 1 or 2 weeks of employment during a 26-week period, we do not believe that this would sufficiently alleviate financial hardship. A contraction of the 26-week rule may assist in managing the members' financial affairs and could potentially reduce genuine hardship (instead of prolonging it).

To appropriately assess genuine financial hardship, funds need to be able to undertake increased verification procedures. In completing a tax return, a tax agent is required to check for additional bank accounts through a Tax File Number (TFN) data matching program. The ability to check a member's credit history is another consideration that is critical in assessing financial hardship and should be considered as part of this consultation process.

Between 1 July 2010 and 15 January 2018, 1,230 claims were made by Mine Super members on severe financial hardship grounds, totalling \$10.3m.

Mine Super recommends that trustees be provided with prescribed standard guidelines so that assessments can be made on a consistent basis across all funds. Standardised grounds for refusal should also be established, for example, if multiple applications over a specific period have similar evidence. Other considerations that may assist in ensuring only genuine claims are processed would include payments from the funds directly to the debtor to ensure the release of all monies are used for the intended purpose. Strict guidance will ensure members do not roll in and out of funds depending on the leniency of the trustee. At present, Mine Super does not provide the early release of superannuation for the payment of fines, which may not be the consistent approach taken across all funds. A level playing field needs to be established, while at the same time allowing for trustee discretion in extraordinary circumstances.

Victims of crime compensation

Mine Super believes that victims of crime compensation should continue to be provided by government and is outside the scope of the proposed purpose of superannuation. We do not support the proposal to fund compensation for victims of crime by superannuation.

