

**Review of superannuation and victims of crime compensation –**

**Financial Counselling Australia** (FCA)

is the peak body for financial counsellors in Australia.

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June 2018

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**About Financial Counselling**

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 Australia**

FCA is the peak body for financial counsellors in Australia. FCA’s member groups are the State and Territory financial counselling associations. FCA provides a voice for the financial counselling profession and advocates for a fairer marketplace for the clients of financial counsellors.

**Contact Person for this Supplementary Submission**

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# 1 GENERAL COMMENTS

FCA supports the two proposals in this submission in principle. The victim of a crime should be compensated by the perpetrator and the perpetrator should not be able to hide funds in superannuation.

We only propose to make general comments and will not comment on the specifics of the proposals.

FCA does have a number of concerns about the efficacy of the proposals.

Support for the victim in seeking the compensation

Victims of crime will often experience a great deal of trauma and that trauma can severely interfere with the ability of the victim to pursue compensation. It is essential that the victim have a range of properly funded support services available to them. In particular, as the proposals will have a number of conditions, it is important that victims have access to free legal representation (for example, community legal centres and Legal Aid) if the process is complicated.

Adequate funding for statutory victim’s compensation schemes

The proposals are no substitute for an adequately funded Government victim compensation scheme. There is no doubt that there is pressure on victim’s compensation funds due to rising claims.[[1]](#footnote-1) Even if the proposals became law, the vast amount of victim’s compensation would still be through statutory schemes. Compensation from perpetrators is often unrecoverable due to economic disadvantage. Further, there are many victims who deliberately do not seek compensation from the perpetrator because the process is stressful, causes safety fears and/or there is little chance of the order being paid even if granted by the Court.

The likely efficacy of the changes

FCA is concerned that both proposals will be successfully used in very rare circumstances.

The petition and the case that led to the announcement of these proposals[[2]](#footnote-2) is atypical as the convicted criminal (*Maurice Van Ryn*) was a former CEO of a large company (Bega) with considerable wealth in his superannuation fund. In fact, the Minister for Financial Services, Kelly O’Dwyer, confirmed that this situation was rare:

*“Given the horrific nature of the allegations and in rare circumstances such as these, I believe it is worth considering how the relevant laws may need to be amended to ensure victims of such crimes are not left without recourse.”[[3]](#footnote-3)*

FCA agrees that the above situation is unfair and unjust. However, we remain concerned that very few people will benefit from these changes. In our view, this further strengthens the need for adequate funding of victim’s compensation services.

1. In 2012 a PWC review of the Victim’s Compensation Scheme in NSW found that the scheme is “financially unsustainable” (page 3) at https://www.victimsservices.justice.nsw.gov.au/Documents/tp\_report-pwc-vcf-review.pdf [↑](#footnote-ref-1)
2. See https://www.begadistrictnews.com.au/story/5116507/mother-of-van-ryn-victim-supports-review-into-releasing-super-money-for-crime-compensation/ [↑](#footnote-ref-2)
3. The Daily Telegraph, 27 October 2017 available at https://www.dailytelegraph.com.au/news/nsw/bega-paedophile-maurice-van-ryn-forced-to-unlock-his-super-wealth/news-story/16643ccd1e16da5192e4b4ffd51526f6 [↑](#footnote-ref-3)