

Redfern Legal Centre



15 February 2019

Manager, Early release of superannuation
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600
By Email: superannuation@treasury.gov.au

Dear Manager,

Re: Review of the early release of superannuation benefits.

We are grateful for the opportunity to comment on the review of the early release of superannuation benefits.

Introduction to Redfern Legal Centre

Redfern Legal Centre (RLC) is an independent community legal centre providing access to justice for disadvantaged individuals in the Redfern area and across NSW. RLC has a particular focus on human rights and social justice, with specialised practices in domestic violence, tenancy, credit and debt, employment, discrimination and complaints about police and other governmental agencies.

By working collaboratively with key partners, RLC specialist lawyers and advocates provide free advice, conduct case work, deliver community legal education, prepare publications and submissions and advocate for law reform. RLC works towards reforming our legal system for the benefit of the community.

RLC's work in superannuation

Since 1977, RLC has run a specialist practice to assist vulnerable and disadvantaged consumers address credit and consumer law problems. We regularly encounter vulnerable consumers who, for

a range of reasons, want to seek early access to their superannuation. Recently, we have expanded this work and are establishing a dedicated state-wide financial abuse legal service in New South Wales. We provide advice and representation to people who have credit and debt issues arising from their experience of family and domestic violence.

RLC's views

We endorse the submission by the Financial Rights Legal Centre.

We would like to make additional comments in relation to draft proposal 7 of the issues paper concerning victims of family and domestic violence, specifically on the issue of evidence.

RLC does not support the need for victims to provide judicial evidence or two pieces of specific non-judicial evidence to confirm the individual is a victim of family and domestic violence. We are of the view the evidentiary requirements should be lowered because there are many reasons why victims of family and domestic violence may not be willing or able to seek a court order, speak to police or engage with local services. In our experience safety and cultural reasons are most often cited. There may also be barriers such as language and location.

Given people are accessing their own money and not government funding, we submit onerous evidence requirements are not necessary. Such rigorous evidentiary requirements are not required by other schemes, for example, The Australian Financial Complaints Authority (AFCA) Approach to joint facilities and family violence states, 'where a customer discloses family violence then the financial firm should take this on face value and not require the customer to provide evidence, for example, in the form of an intervention order'¹.

In our experience, it is particularly difficult for people to obtain judicial or police evidence for financial abuse. A 2017 RMIT study found that 15.7% of Australian women and 7.1% of Australian men have experienced financial abuse in an intimate partner relationship.² It is a form of domestic violence that has a significant impact on health and financial wellbeing of victims however in some states, it is not possible to obtain a court order for financial abuse. For example, in New South Wales, the *Crimes (Domestic and Personal Violence) Act 2007* does not give the courts the power to make an Apprehended Domestic Violence Order on the basis of economic or financial abuse. The NSW legislation is prescriptive to offences involving personal violence, intimidation or stalking (or similar conduct). As a result, financial abuse is often deemed by Police to be a civil law or family law dispute.

We recommend the evidence requirements for the early release of superannuation for victims of family and domestic violence should be a requirement for one piece of evidence from the following list:

- Statutory Declaration from the victim
- Judicial order
- Statement from a police officer
- Statement from a lawyer, financial counsellor, caseworker, social worker, medical practitioner, health practitioner, psychologist, counsellor, manager or coordinator of a women's refuge (or crisis or counselling service), school principal, school welfare coordinator, or officer from a child welfare or protection authority.

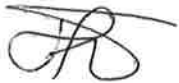
¹ The AFCA Approach to joint facilities and family violence, page 12.

² Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress, Jozica Kutin, Roslyn Russell, Mike Reid, 2017. <https://onlinelibrary.wiley.com/doi/full/10.1111/1753-6405.12651>

Please do not hesitate to contact us if you require any further information.

We would welcome the opportunity meet with you to further discuss our submission.

Yours faithfully,
Redfern Legal Centre



Joanna Shulman
Chief Executive Officer



Laura Bianchi
Credit, Debt and Consumer Law Solicitor