

Early Release Review  
Retirement Income Policy Division  
The Treasury  
Australian Government  
By email: [superannuation@treasury.gov.au](mailto:superannuation@treasury.gov.au)

Date: 12 February 2018

## **Submission on review of the early release of superannuation benefits**

Thank-you for the opportunity to comment on the Treasury's discussion paper on the early release of superannuation. Our comments are focused on the proposals as they relate to domestic and family violence.

This submission has been endorsed by Equality Rights Alliance and economicSecurity4Women.

### About Australian Women Against Violence Alliance

Australian Women Against Violence Alliance (AWAVA) is one of the six National Women's Alliances funded by the Australian Government to bring together women's organisations and individuals across Australia to share information, identify issues and contribute to solutions. AWAVA's focus is on responding to and preventing violence against women and their children. AWAVA's role is to ensure that women's voices and particularly marginalised women's voices are heard by Government, and to amplify the work of its member organisations and Friends and Supporters. AWAVA's members include organisations from every State and Territory in Australia, representing domestic and family violence services, sexual assault services, and women's legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators, women in the sex industry and other groups. AWAVA's lead agency is the Women's Services Network (WESNET).

The poverty and financial hardship that women experience as a result of violence is a major part of the short and long-term impacts of this violence, with compounding repercussions affecting health and well-being in all areas of life, for women individually and for their dependents. At the same time, women's relative economic disempowerment is a major factor

contributing to the perpetration of violence against women, both at a society-wide level and at a personal level.<sup>1</sup>

The choices open to women to pursue lives free of violence, abuse and control are structured by their access to resources and their autonomy with regard to how those resources are used. Measures to alleviate hardship and provide financial support at critical points, such as attempts to establish a household separate from an abusive partner, must therefore be pursued in a way that does not exacerbate economic gender inequality overall, or contribute to victims'/survivors' economic disempowerment and poverty across their life-course.<sup>2</sup> The most sound approaches to achieving this goal are structural responses that are grounded in human rights principles and are competent in meeting the needs of people with diverse and multiple experiences of poverty and disempowerment.

From this perspective, proposals to extend the early release of superannuation in cases of domestic and family violence are problematic. Individuals do experience extreme hardship resulting from domestic and family violence, and could benefit in the immediate term from access to some portion of their superannuation savings, with potential flow-on benefits in terms of financial recovery over their lifetime. However, there is no evidence that these flow-on benefits would outweigh the negative impact on savings. Most importantly, the same benefits could be obtained from measures that provide flexible, adequate and publicly-funded support both at critical moments and as part of a sound ongoing social security payments system. Unlike measures to expand early release of superannuation, the latter approach would not jeopardise individuals' lifetime savings or increase their risk of poverty in later life.

At present, the Workplace Gender Equality Agency (WGEA) estimates Australia's gender pay gap at 15.3 per cent.<sup>3</sup> Even without other factors such as interruptions to paid employment, this gap would result in women having less superannuation when they retire. In 2013-14, the median super balance for a woman in the 55-64 age group was \$80,000 compared to \$150,000 for men. This represents a super gender gap of 47%.<sup>4</sup> As a result, women are more likely to experience poverty in their retirement years and be far more reliant on the Age Pension.<sup>5</sup> Having access to the early release of superannuation will not make any structural changes to reduce either the gender pay gap or the superannuation gap.

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<sup>1</sup> Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*, Our Watch, Melbourne, Australia. <https://www.ourwatch.org.au/getmedia/0aa0109b-6b03-43f2-85fe-a9f5ec92ae4e/Change-the-story-framework-prevent-violence-women-children-AA-new.pdf.aspx>

<sup>2</sup> Australian Law Reform Commission (2011) *Family Violence and Commonwealth Laws* (DP 76), Section 19 - Superannuation Law, <https://www.alrc.gov.au/publications/19-superannuation-law/gaining-early-access-superannuation>

<sup>3</sup> Workplace Gender Equality Agency <https://www.wgea.gov.au/addressing-pay-equity/what-gender-pay-gap>

<sup>4</sup> Australian Institute of Superannuation Trustees, Women in Super (2016) Women's Super Summit 2016, [http://www.aist.asn.au/media/881217/2016\\_aist-wis\\_women\\_s\\_super\\_summit\\_web.pdf](http://www.aist.asn.au/media/881217/2016_aist-wis_women_s_super_summit_web.pdf)

<sup>5</sup> R Tanton, Y Vidyattama, J McNamara, Q Ngu Vu & A Harding, *Old Single and Poor: Using Microsimulation and Microdata to Analyse Poverty and the Impact of Policy Change Among Older Australians* (2008) p 15.

Services for women and children facing domestic and family violence are severely underfunded and already find it difficult or impossible to adequately assist those who have particularly large or complex needs and limited means of support.<sup>6</sup> We are concerned that broadening and normalising the use of personal savings (in this case, superannuation) as a way to meet the needs of women facing violence would further entrench the structural under-resourcing of the women's service sector. This approach is also inherently regressive, in that it would increase inequality by making the capacity to build a life free of violence even more dependent on personal wealth and income.

The principle of the state's responsibility to create safety for all residents<sup>7</sup>, and more specifically to provide adequate services and support to victims/survivors of violence<sup>8</sup>, requires a more comprehensive, universal and human-rights-based approach to meeting the needs of women and children in situations of hardship. This includes extending income support and other public services to meet the needs of women who do not currently have access, particularly women without permanent visa status and without income.<sup>9</sup>

If the proposal goes ahead, we recommend that it be used as a last resort only.<sup>10</sup> Substantial additional funding is also needed for services assisting particularly marginalised groups of people, including Aboriginal and Torres Strait Islander people, to engage with financial

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<sup>6</sup> For example, a recent report by the Multicultural Centre for Women's Health suggests that almost half (47.6%) of the immigrant and refugee women accommodated in refuges in Victoria in 2009-2010 were women without permanent residency. Similar concerns were highlighted by the ALRC in its Discussion Paper and Final Report, Family Violence and Commonwealth Laws, and were raised in submissions from TEWLS and immigrant women's organisations. On the other hand, anecdotal evidence suggests that women without permanent residency require longer support. For a detailed analysis on the visa implications in the context of family violence, we refer you to AWAVA's 2017 submission to the Department of Immigration and Border Protection on visa simplification: <https://awava.org.au/2017/10/12/submissions/submission-department-immigration-border-protection-visa-simplification>.

<sup>7</sup> United Nations General Assembly (2013) Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, A/HRC/23/49, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A\\_HRC\\_23\\_49\\_English.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf)

<sup>8</sup> AT v Hungary - CEDAW Committee Recommendation No. 19 para 24 (r) (iii); Beijing Platform Strategic Objective D1 para 125 (a), echoed by the Secretary General at p80 of his report; CEDAW Committee Decision 2005 Communication No.2/2003. <http://www.un.org/womenwatch/daw/cedaw/protocol/decisions-views/CEDAW%20Decision%20on%20AT%20vs%20Hungary%20English.pdf>; Commission on the Status of Women, 57<sup>th</sup> session (2013) Agreed Conclusions on the elimination and prevention of all forms of violence against women. E/CN.6/2013/11

<http://www2.unwomen.org/~media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?v=1&d=20140917T100700> clause A(c); UN Women (2012) Handbook for National Action Plans on Violence against Women <http://www.unwomen.org/en/digital-library/publications/2012/7/handbook-for-national-action-plans-on-violence-against-women> p. 44.

<sup>9</sup> AWAVA (2017), Submission on Visa Simplification to the Department of Immigration and Border Protection <https://awava.org.au/2017/10/12/submissions/submission-department-immigration-border-protection-visa-simplification>; AWAVA and Harmony Alliance (2017), Joint Pre-Budget Submission 2018-19, <https://awava.org.au/2018/02/01/submissions/2018-2019-joint-awava-harmony-alliance-pre-budget-submission>

<sup>10</sup> This recommendation follows Women's Legal Services Australia's advice to the ALRC inquiry into Family Violence and Commonwealth Laws, <https://www.alrc.gov.au/publications/19-superannuation-law/gaining-early-access-superannuation>

services and access the benefits that they are meant to have rights to under superannuation and other schemes.<sup>11</sup>

Once again we thank you for the opportunity to provide input to this consultation. If you would like to discuss the contents of the submission further, please contact Merrindahl Andrew, AWAVA Program Manager, using the details below.

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<sup>11</sup> Public Interest Advocacy Centre (2013), *Securing better outcomes for Aboriginal and Torres Strait Islander people in superannuation*, [https://www.piac.asn.au/wp-content/uploads/13.04.05\\_securing\\_better\\_outcomes\\_for\\_aboriginal\\_and\\_torres\\_strait\\_islander\\_people\\_in\\_superannuation\\_0.pdf](https://www.piac.asn.au/wp-content/uploads/13.04.05_securing_better_outcomes_for_aboriginal_and_torres_strait_islander_people_in_superannuation_0.pdf)