

Early Release Review, Retirement Income Policy Division
The Treasury
Australian Government
By email: superannuation@treasury.gov.au
Date: 14 February 2019

Submission in response to the public consultation on the review of early release of superannuation benefits

Thank-you for the opportunity to make a submission in response to the public consultation on the review of early release of superannuation benefits. We have made a submission¹ to the previous consultation and are pleased to see some of our concerns reflected in the issues paper. We would like to provide further input in relation to the early release of superannuation in situations of family violence.

In addition, AWAVA endorses the submission made by Domestic Violence Victoria to this consultation.

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, services working with women in the sex industry, and women's legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators and other groups. AWAVA's contract manager is the Women's Services Network (WESNET).

Summary of Recommendations:

1. That the Australian Government pursue agreement through COAG that all States and Territories will implement flexible financial support programs for victims/survivors along the lines of the Victorian model;
2. That these programs be co-designed with specialist women's services and domestic, family and sexual violence peak bodies and underpinned by a set of agreed principles, including that models for implementation in each jurisdiction limit the reporting requirements, maximise flexibility for individual victims/survivors and services, and include funding for case management within an integrated system focused where possible on enabling women and their children to remain in their own homes.
3. Amend and simplify evidentiary requirements to provide one piece of evidence regardless whether of judiciary or non-judiciary nature while accessing an early release of superannuation benefits.
4. Ensure that comprehensive training on the nature and dynamics of domestic and family violence is provided to all relevant Regulator employees.

¹ AWAVA (2018) Submission on the review of early release of superannuation benefits
https://awava.org.au/2018/02/20/submissions/submission-early-release-superannuation?doing_wp_cron=1547611064.8651750087738037109375

General Comments

AWAVA wishes to reiterate that victims/survivors should not have to rely on their personal savings to rebuild their lives affected by violence. While we acknowledge that the Review proposes that “the early release of superannuation regime [is] not intended to be a substitute for adequate government support”², and that there is some support for these proposals among the sector, we strongly believe that these proposals signal a shift of responsibility from government responses onto the individual. The proposals therefore appear to shift the onus of rebuilding one’s life after family violence onto the victim/survivor. This reinforces outdated stereotypes about family violence being a private issue rather than being a government responsibility to ensure the safety of all women in Australia.

We are concerned that in an environment where women are earning less and retiring with less money than men and are subjected to financial abuse in the context of family and post separation (for instance, through protracted legal battles in the Family Courts especially with abusive partners lodging claims without merit), proposals to further rely on personal savings do not provide long-term solutions and recovery for victims/survivors.

In addition, regarding the gender gap in superannuation savings, it is important to note that women from culturally and linguistically diverse backgrounds may not have access to “the full benefits of superannuation because they are mostly in casual and precarious work, and are often in and out of work due to family responsibilities and/or lack of available jobs.”³ Other barriers exist such as language, recognition of prior qualifications, and access to transport. Women who are on temporary visas and are experiencing violence may not have any superannuation savings at all given the restrictions on work rights, the nature of their visas or simply their lack of employment. In this regard, these cohorts of women are unlikely to benefit substantially if at all from these proposals.

We support the principle that accessing personal savings to build a life free of domestic and family violence needs to be the last resort. However, it is unclear from the proposals how this will be determined. For these purposes it is essential that fully resourced case management provided by specialist women’s service is in place to assist victims/survivors of DFV. We wish to stress that alongside measures to improve women’s economic security, especially after having experienced family violence, a better investment in specialist women’s services is required to ensure their capacity to meet increasing service demand.

Expansion and roll out of the equivalent of Victorian Flexible Support Packages

We acknowledge that the issues paper draws on the Victorian Flexible Support Packages as a model for setting the amounts and types of expenses in the proposal for the early release of superannuation benefits. We also acknowledge the proposed early release of superannuation benefits will be capped and only used as a last resort. However, we wish to reiterate our previous argument that the access to personal savings to rebuild one’s life affected by violence should not replace government support.

Rebuilding a woman’s life after family violence requires substantial support that does not come at the cost of personal savings and increases the risk of living in poverty. Our position remains that victims/survivors need to be supported and not left on their own.

We recommend that the Australian Government expand and roll out an equivalent of the Victorian Flexible Support Packages across all states and territories. This process needs to be undertaken in consultation with specialist women’s services and domestic, family and sexual violence peak bodies, as well as develop a set of principles to underpin such support packages across Australia.

² The Treasury, Australian Government (2018) Review of Early Release of Superannuation Benefits. Further consultations and draft proposals.

³ www.fecca.org.au/images/stories/pdfs/fecca%20womens%20policy%202012.pdf p.5

Recommendations:

1. That the Australian Government pursue agreement through COAG that all States and Territories will implement flexible financial support programs for victims/survivors along the lines of the Victorian model;
2. That these programs be co-designed with specialist women's services and domestic, family and sexual violence peak bodies and underpinned by a set of agreed principles, including that models for implementation in each jurisdiction limit the reporting requirements, maximise flexibility for individual victims/survivors and services, and include funding for case management within an integrated system focused where possible on enabling women and their children to remain in their own homes.

Should the proposals related to the early release of superannuation benefits in situations of family violence go ahead, we would like to express the following concerns and make the following recommendations.

Amend Evidentiary Requirements

We support the calls of Domestic Violence Victoria that victims/survivors need to be believed when they are disclosing violence that was inflicted on them. Strictly imposed requirements to prove experiences of family violence reinforce damaging victim-blaming attitudes and may prevent women from disclosing and seeking help with domestic, family and sexual violence in the first instance.

In the event that the proposals go ahead, we do not support a restrictive and limited list of evidentiary requirements requiring an applicant to provide one piece of judiciary or two pieces of non-judiciary evidence. We also note the list of professionals allowed to testify to the experiences of family violence, as stated in the issues paper, is limited ("a medical practitioner, a member of the Australian Association of Social Workers or a registered psychologist")⁴. We envision several issues with such a limited list.

Firstly, access to counselling needs to be premised around a victim/survivor's desire and readiness to heal. For most women, following separation from a partner, the purpose of seeing a psychiatrist or psychologist is not to prove that violence took place, but to allow the victim/survivor to focus on their health and wellbeing. Moreover, there are public policy reasons why victims of violence should be free to say anything to their psychiatrist or psychologist and why other people should not have access to those records.

Secondly, not every family violence specialist worker is a member of the Australian Association of Social Workers (AASW). We understand that the evidentiary requirements are drawn on the Legislative Instrument IMMI12/116. We bring to your attention that this document allows not only for a member of AASW but also "a person who is eligible to be a member of that Association who has provided counselling or assistance to the alleged victim while performing the duties of a social worker"⁵.

Lastly, we are concerned that the list does not include specialist family violence and specialist women's sector service providers as professionals to provide non-judiciary evidence. We refer you to AWAVA's Policy Brief on the unique role of specialist women's services in reducing violence against women that testifies to their expertise in supporting women and their children who are experiencing domestic, family and sexual violence.⁶ These services have a proven expertise in supporting women who are experiencing family violence. Evidence provided by them should be deemed credible.

We reiterate that evidentiary requirements need to be amended and simplified. As an example from a different area, we draw your attention to South Australia's new residential tenancy protections for

⁴ Ibid.

⁵ Migration Regulations 1994, Specification of Evidentiary Requirements – IMMI 12/116
<https://www.legislation.gov.au/Details/F2012L02237/Download>

⁶ AWAVA (2016) Policy Brief. The Unique Role of Specialist Women's Services in Australia's Response to Violence Against Women and their Children. https://awava.org.au/2016/04/07/research-and-reports/role-specialist-womens-services-australias-response-violence-women-children?doing_wp_cron=1547611372.7719249725341796875000

victims/survivors of domestic and family violence. These protections allow a victim/survivor “to stay at the rented home and have the perpetrator leave [or to] leave the rented home and be removed from the rental agreement.”⁷ In these situations, a victim/survivor needs to provide only one piece of evidence whether judiciary or non-judiciary: “The Tribunal will need to see evidence of either an intervention order issued by a Court or a report from SA Police or a specialist domestic violence service provider.”⁸ We believe that such an approach with regard to the evidence could be replicated in the early release of superannuation benefits.

Recommendation:

- 3. Amend and simplify evidentiary requirements to provide one piece of evidence regardless whether of judiciary or non-judiciary nature while accessing an early release of superannuation benefits.**

Covered expenses

We support the proposal that there should be no restrictions on the included expenses. Women who have experienced domestic and family violence are the experts in their own situations, capable to decide what measures or adjustments are needed to gain financial security and independence post separation.

Developing workforce capacity to appropriately respond to people disclosing domestic and family violence

We note that the decision to appoint the Australian Taxation Office as a regulator was made in order to streamline the application process. We also note that the issues paper states that ATO will be giving relevant information about family violence support services available.

In this regard we wish to highlight the importance of workforce development to ensure appropriate responses to the disclosure of family violence. In instances, where ATO employees will be reviewing provided evidence, they need to be appropriately trained on the nature and dynamics of domestic and family violence and sexual violence.

Recommendation:

- 4. Ensure that comprehensive training on the nature and dynamics of domestic and family violence is provided to all relevant Regulator employees.**

In conclusion, we wish to reiterate that an early release of superannuation benefits in situation of domestic and family violence needs to be the last resort in supporting victims/survivors to rebuild their lives and gain economic security. Additionally, avenues such as a roll out of models equivalent to the Victorian Flexible Support Packages needs to be implemented to ensure that victims/survivors of family violence do not use their personal savings which can exacerbate poverty and gender superannuation gap in retirement. Should the proposals go ahead, we recommend amending evidentiary requirements with the aim to provide only one piece of evidence.

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 Dr Merrindahl Andrew, AWAVA Program Manager, using the details below.

Dr Merrindahl Andrew

Program Manager

Australian Women Against Violence Alliance

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⁷ South Australian Residential Tenancy Protections for Domestic Violence Victims

<https://www.sa.gov.au/topics/housing/resolving-problems-and-disputes/domestic-violence-protections-for-renters>

⁸ Ibid.