

AFCA Approach Consultation – Superannuation jurisdiction

Consultation paper: Approach to superannuation death benefit complaints

October 2024

This consultation paper seeks feedback from relevant stakeholders and interested members of the Australian community. The consultation paper covers AFCA's Approach to complaints we receive about superannuation death benefits.

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1 Background

About AFCA

The Australian Financial Complaints Authority (AFCA) is a free, fair and independent dispute resolution scheme. We consider complaints about financial products and services. AFCA's service is an alternative to tribunals and courts to resolve complaints consumers and small businesses have with their financial firms.

About AFCA's Approach Documents

AFCA Approach Documents help consumers and financial firms to better understand how we reach decisions about key issues. These documents explain the way AFCA approaches common issues and complaint types. They give the parties to a complaint real insight into what they can expect during our process and the types of submissions they should make in support of their case.

However, it is important to understand each complaint that comes to us is unique, so the information in an Approach Document is a guide only. No determination (decision) can be seen as a precedent for future cases, and no AFCA Approach Document can cover everything you might want to know about a key issue.

About this consultation

We invite stakeholder feedback on AFCA's updated Approach that deals with common complaints about superannuation death benefits. Information about our consultation, including consultation dates, is set out in Part 3 of this consultation paper.

2 The consultation process

About the consultation

AFCA is seeking feedback about the draft updated Approach Document through a public consultation process. Links to the draft updated Approach, showing the draft changes in mark-up, and to a clean version, are in Appendix 1 of this document. The documents are also available on our [consultation webpage](#).

AFCA will consider feedback from all stakeholders before the updated Approach is finalised.

The public consultation process will run from **Monday 7 October 2024** until **Friday 25 October 2024**.

Our final updated Approach will be published on the AFCA website. We will also publish a Feedback report to inform of the outcomes of our consultation process.

1.1 How to make a submission

We invite you to comment on the key consultation questions in this paper and any other issues you wish to raise. Your feedback will help us to decide on the final content.

Our consultation process is designed to be flexible and accessible. AFCA invites stakeholders to provide feedback or make a submission through one of the following channels:

- **email general questions and comments** to us at consultation@afca.org.au
- **send us a written submission** by emailing it to consultation@afca.org.au
- **post/ mail a written submission** to:

Lead Ombudsman – Superannuation
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

Please provide your feedback by **25 October 2024**. AFCA will consider and respond to consultation submissions and feedback after the consultation period has closed.

1.2 How we handle personal information

Submissions will be published on the AFCA website at the end of the consultation period. We will:

- include your name or organisation on the published version of the submission unless you ask for the submission to not be published or to be de-identified.
- not publish personal information (e.g. phone number, email or postal address).

If you would like your submission to be **de-identified** or you do not want your submission to be published on AFCA's website, please let us know.

By making a submission:

- you consent to AFCA handling your personal information. Any personal information obtained through the consultation process may be used for the purpose of analysis or to contact you if we require further information.
- you acknowledge you understand your submission may also be used for the secondary purpose of considering the submission in future consultations.

Please refer to our privacy policy at www.afca.org.au/about-afca/policies/privacy-policy for more information about how we handle personal information.

1.3 What will happen next

Table 1: Expected consultation timeline

Stage	Date	Milestone
Stage 1	7 October 2024	AFCA consultation paper released
Stage 2	25 October 2024	AFCA consultation period ends – comments due
Stage 3	November 2024	AFCA to consider and respond to consultation feedback and submissions
Stage 5	December 2024	AFCA publishes updated final Approach

3 The proposed Approach and consultation questions

Below we set out some background information and ask some specific questions about our draft updates to our current Approach. We also welcome your general feedback about changes that could be made to the Approach to better achieve our objectives.

Approach to superannuation death benefit complaints

AFCA has extensive experience dealing with complaints about superannuation death benefits. We deal with these complaints in a consistent way.

To support transparency and efficiency for consumers and financial firms, we have an existing Approach which explains how AFCA deals with complaints about the distribution of a superannuation death benefit. We seek your feedback on updates we propose to make to our existing Approach (tracked in this document).

These updates are not intended to reflect any change to the substance of AFCA's existing Approach, but provide clarification about some issues and add detail about matters including:

- how AFCA applies definitions of the terms 'dependant', 'spouse', 'child', 'interdependency relationship' and 'financial dependant'
- the circumstances in which AFCA might consider it appropriate to include adult children and legal personal representatives in distributions
- trusts for minor children, and how AFCA approaches cases where there has been violence or abuse in a relationship, or a claimant has been involved in the death of the fund member.

4 Feedback

We seek the following feedback:

1. Are there aspects of the Approach that could be further improved or clarified? Please provide examples if available.
2. Are there any unintended consequences that you envisage may result from the Approach?
3. Do you have any suggestions for how AFCA could amend the Approach to better achieve the objectives of the Approach?

Financial abuse

AFCA and predecessor EDR schemes have seen perpetrators engage in financial abuse across the entire financial services system. AFCA recently provided a [submission](#) to the Parliamentary Inquiry into the Financial Services Regulatory Framework in relation to Financial Abuse (the Inquiry).

AFCA's submission suggested that responses in line with those relating to superannuation fraud and scams may similarly be deployed to respond to the risks of financial abuse in the superannuation context. Our submission also made four Recommendations for the Inquiry to consider (See Pg. 23).

AFCA has current website resources addressing situations where people have been affected by domestic violence. These include *The AFCA Approach to joint accounts and family violence* and *various factsheets*. See [Supporting people impacted by domestic violence](#) for more information.

As part of [AFCA's Approach Consultation Schedule for FY2024/2025](#), we have committed to consult on the following Approaches:

- Approach to Joint Accounts and Family Violence
- Approach to Elder Financial Abuse

These Approaches focus on Banking & Finance complaints. However, AFCA's observations around issues relating to financial complaints and family violence and financial abuse cover the broader financial services system.

We will consult with industry, consumer groups and other stakeholders before finalising plans for future Approaches.

5 Attachments

Appendix 1

1.4 [Draft Approach to superannuation death benefits \(CLEAN\)](#)

[Draft Approach to superannuation death benefits \(TRACKED CHANGES\)](#)