



Supplementary submission –

EARLY RELEASE OF SUPERANNUATION BENEFITS – UNDER COMPASSIONATE AND FINANCIAL HARDSHIP GROUNDS AND FOR VICTIMS OF CRIME COMPENSATION

Financial Counselling Australia (FCA)
is the peak body for financial counsellors in Australia.

Email to: superannuation@treasury.gov.au

May 2018

info@financialcounsellingaustralia.org.au | www.financialcounsellingaustralia.org.au

Level 6, 179 Queen Street
Melbourne
VIC 3000

Contact person for this submission
Fiona Guthrie
phone: 03 8554 6979
mobile: 0402 426 835

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

Fiona Guthrie
CEO

info@financialcounsellingaustralia.org.au

1 ABOUT THIS SUPPLEMENTARY SUBMISSION

Financial Counselling Australia (FCA) was part of a joint consumer group submission sent on 13th February 2018.¹

FCA is currently in the process of training financial counsellors about family violence across Australia. As part of that process, a number of financial counsellors have brought up issues regarding early access to superannuation which were not covered in our original submission. For this reason, we are making this supplementary submission. We recognise that it is very late but the points are important.

Names used in the case studies below have been changed.

2 EARLY ACCESS AND BODY CORPORATE/STRATA FEES

We strongly support the submission by Financial Rights Legal centre on this point. FCA contends that a ground of release should be available to pay body corporate or strata fees. It is now standard practice in the debt recovery of strata fees for bankruptcy proceedings to be commenced against the debtor for debts over \$5,000. This amount is then increased dramatically as legal fees accrue. The apartment owner then faces the loss of their property because of the unpaid strata fees.

Case study - Susan

Susan, a woman in her late 50s got behind on the strata fees for her unit due to illness. She tried to catch up but the body corporate employed solicitors to collect the debt which was now close to \$5,000. Susan can now pay the normal fees but still could not pay the arrears. The solicitors commenced proceedings in Court and got a judgment. A bankruptcy notice was then issued as the arrears were now more than \$5,000. In desperation Susan saw a financial counsellor for assistance. She has no other debts just the body corporate fees and legal costs. The financial counsellor explained that Susan cannot access her superannuation to pay the debt. She now faces being made bankrupt unless she can obtain a loan.

¹ The other organisations included Choice, Consumer Action Law Centre and the State and Territory financial counselling associations.

3 EARLY ACCESS FOR PRISONERS

In our submission (page 16), in answer to question 2.1 we argued that prisoners should have early access to superannuation. Please find below a number of case studies to support this point.

Case study - Lea

Leia is in custody waiting for the court process for sentencing. Whilst in custody she was diagnosed with breast cancer and is undergoing treatment. Leia is a single mother with a 15 year old son. Her son works part time after school and is living with Leia's brother.

After being placed in custody Leia could not afford her rent and all her belongings were moved into storage. Her son and brother are trying to keep up with the storage costs but are struggling. Leia desperately needs access to her superannuation so that she does not lose all her possessions if the storage is not paid. Access to superannuation would also help to pay a bond for a rental property when she is released so she can provide housing for herself and her son.

Case study - Sam

Sam is an Aboriginal woman with 4 children. She was in the department of housing when placed in custody. She had rental arrears at the time of being put in custody. If she could pay those arrears she could return to the Department of Housing when she left custody. Sam is now on parole and living with her mother. Her mother has severe alcohol addiction and mental health issues. This is undesirable because this may tempt Sam back into drug dependency and further crime. Sam just wants to access her superannuation so she can safely house herself and her children and continue to rehabilitate.

Case study - Hu

Hu ran a business for over 15 years prior to going to prison for 3.5 years. While in prison the business folded. Hu is appealing the conviction as he states he is innocent. Hu has now been released and is in transitional housing. He is finding it hard to get a job given his criminal conviction. He needs to access his superannuation so he can establish housing and find employment.

Case study - Corey

Corey was is in a remand centre awaiting sentencing at the time he saw a financial counsellor. Corey was granted bail and as he had no money he ended up at his mother's house. His mother is an alcoholic with memory problems. His mother accused Corey of stealing his wallet and threatened to call the police. Corey left after this and ended up in an altercation and breached his bail conditions. Now he is back in prison. His car is in storage with fees he has no way to pay. When he is released he just needs to get his car out of storage and get housing so he can return to concreting. Early access to superannuation would help him to do this and re-establish his life.