January 2023

Super Consumers Australia 2023-24 Pre-Budget Submission

ABOUT US

Super Consumers Australia is the people's advocate in the super sector. Super Consumers Australia advances and protects the interests of people on low and middle incomes in Australia's super system. It was founded in 2013 and received funding for the first time in 2018.

Super Consumers Australia pre-budget recommendations

1 Provide adequate ongoing funding to Super Consumers Australia, so it can continue to deliver independent consumer advocacy that strengthens the superannuation system for all Australians.

2 Make it easier for consumers to find and stay in a high performing super fund when they change jobs and enter the workforce

3 Bolster government super and retirement guidance services to reverse the trend of falling financial literacy and retirement planning complexity.

4 Fix default life and disability insurance so that it works for all Australians

5 Pay super at the same time as wages to arrest the scourge of unpaid super on people's retirement savings

6 Ensure accessible information of super on deceased estates, so that particularly First Nation family members can easily find and fairly distribute funds when a loved one passes.

Provide adequate ongoing funding to Super Consumers Australia, so it can continue to deliver independent consumer advocacy that strengthens the superannuation system for all Australians

The super system is designed to benefit Australians. The compulsory nature and complexity of the system mean some people don't engage with their super, leading to poor outcomes at the individual and system level. Super Consumers Australia has been the leading voice for consumers in super since it was first funded four years ago. We have filled the important role by using robust consumer research to rebalance policy debates and ensure super funds, regulators and government are focussed on the needs of consumers. But in June 2023, Super Consumers Australia's current government funding is due to run out, threatening access to consumer advocacy and research in an industry that deeply needs it.

Super Consumers Australia has shown the value it adds to the quality of policy debate over the Australian retirement system. Governments, regulators and industry have appreciated the addition of a consumer voice and provided funding and other support for our existence. As part of a Treasury 2020 consultation into ongoing funding for a super consumer advocate, the majority of submitters, including super industry participants, strongly supported the existence of a consumer advocate.[1]

It is now time to ensure Australian consumers have a permanent place in decision making over the shape of their retirement savings system, by establishing a long-term funding solution.

Since our temporary funding in the 2021-22 Budget we have:

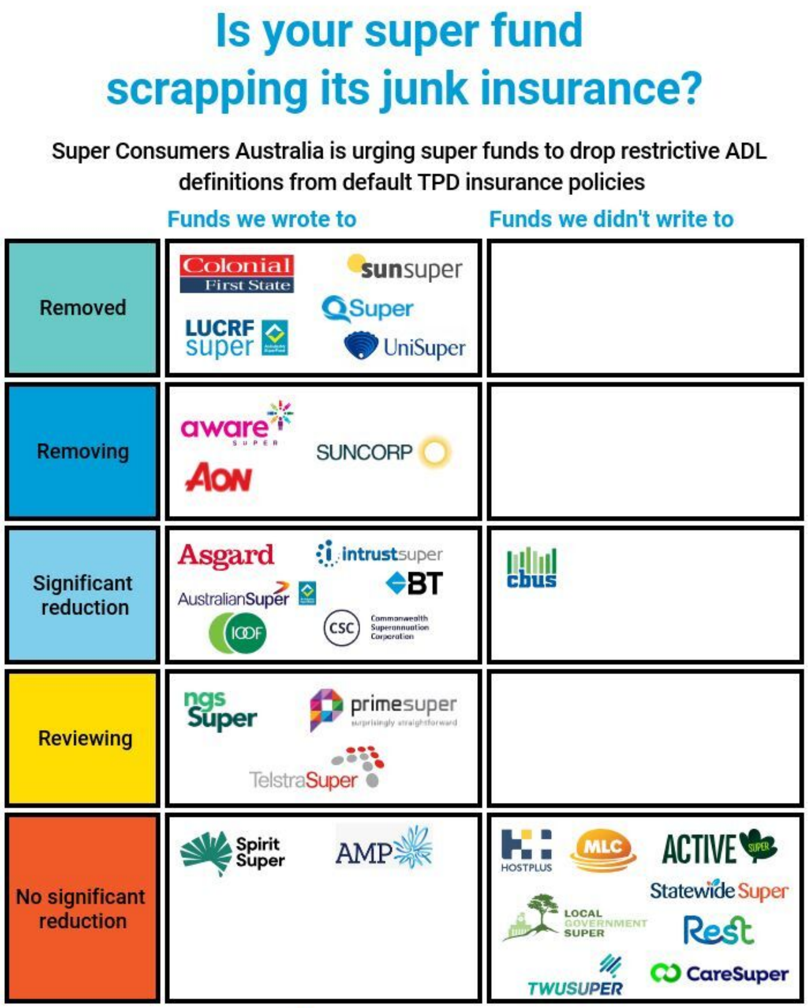
- Produced new retirement savings targets to improve consumer and industry understanding of people's retirement needs. This is now available on ASIC's MoneySmart website,
- Used our research to identify unfair insurance terms that left unemployed, part time, casual, older workers and those making mental health related claims paying for low quality cover. Using advocacy we highlighted how out of step these policies were with community expectations. We then called on funds to make commitments and keep to those commitments to remove or reduce the impact of these unfair terms,
- Provided independent analysis of the Your Future, Your Super reforms and its impact on consumers,
- Improved and supported the passage of the Retirement Income Covenant, so funds must design retirement products based on meaningful member data,

[1] https://treasury.gov.au/consultation/c2019-38640

- Been one of the only submitters to focus on the needs of Australians on low and middle incomes planning for or in retirement as part of the Quality of Advice review,
- Held industry to account in reviews of their member outcome assessments,
- Worked with industry to develop a ban on occupational exclusions in group insurance,
- Supporting measures to remove the $450 threshold, improve the visibility of super in family law proceedings and increasing super data and transparency on investments,
- Began an annual nationally representative ‘consumer pulse’ survey focused on the behaviours, understanding and attitudes of people in the super system,
- Produced independent and high-quality research into a number of areas of importance to consumers, including retirement income needs and desires, and consumer decision-making using the ATO’s YourSuper Comparison tool,
- Made over 60 submissions to government, regulators and industry,
- Published 70 articles including key investigations into super advice and employer onboarding practices,
- Represented consumers in stakeholder consultations, meetings and presentations, including regular scheduled consultations and advisory meetings with ASIC, APRA, AFCA, ATO, ISA, FSC, AIST and the Conexus Institute.

The table below is a case study of the impact we had on improving consumer outcomes in insurance in super. We conducted detailed research on the quality of insurance policies across the superannuation sector. We wrote to 20 funds with the most restrictive insurance definitions. These definitions made it significantly harder to claim for people who worked part time, casual or were unemployed. We demonstrated to the funds that they were out of touch with community expectations and their peers. We coupled this with investigative reporting on the stories of people impacted by these restrictive policies and shared these stories with national media outlets. We published the responses of the funds to our concerns. As a result of this spotlight, 14 of 19 funds (down from 20 due to a merger), took action to improve their policies. By contrast, of the funds we didn’t write to, none removed these definitions, and only one took it upon themself to significantly reduce the restrictiveness of their terms.[2] The impact of these changes could be the difference between a person with a disability getting an insurance payout or getting nothing.

[2] https://superblog.netlify.app/2021/10/28/update-on-restrictive-tpd-policies/



To preserve our role in policy debates, research, consumer guidance and the organisation's development, we urgently seek ongoing funding.

Prior to having a dedicated consumer advocate, the super landscape looked drastically different. As the Productivity Commission identified in 2019, the heart of many problems with super is that it has been dominated by the interests of funds and trustees rather than consumers.[3] The system was awash with self-interest, which saw people defaulted into inappropriate insurance and funds that performed poorly, all while Australians amassed 10 million costly duplicate accounts. We should not slide back to this standard.

[3] Productivity Commission, 'Inquiry Report: super: Assessing Efficiency and Competitiveness' 2018

Without funding certainty, Super Consumers Australia will have difficulty in maintaining staffing and expertise, and will struggle to be an effective advocate. To ensure continuity of a consumer voice in super we recommend:

Recommendation 1

That the Federal Government assign long-term sustainable funding of Super Consumers Australia in the upcoming Budget.

Make it easier for consumers to find and stay in a high performing super fund when they change jobs and enter the workforce

Changing jobs is one of the few times people engage with a decision about their choice of super fund. The difference between being in a good super fund and a poor one can be life changing. Recent consumer-focussed legislation, such as a performance test and stapling, have been introduced to help people during this time to ensure people stay in one single high-performing fund. But the processes put in place by software providers, super funds and employers are actively undermining the goal of this legislation. We have seen evidence of businesses taking advantage of the weaknesses in the fund selection process to channel people away from safe defaults or an existing fund into high fee alternatives. The government must improve and standardise how consumers choose super funds when they start a new job to ensure new market entrants don't subvert the intent of these pro-consumer reforms.

Case study - MYOB onboarding software

As part of our response to the Your Future, Your Super review, Super Consumers Australia investigated the online onboarding application owned by an MYOB subsidiary, Flare HR. According to MYOB, one in four employees in Australia are being onboarded via its platform (a million people in the year to March 2022). The app requires consumers to make an active choice of super fund when they are onboarding at a new employer.

MYOB, through its subsidiaries, runs a super fund called Slate Super which is prominently marketed on the app.

According to Slate Super, the fund has amassed 100,000 members since it began in 2020. This is massive growth compared to other new entrants like Spaceship Super (18,000 members), Zuper (which failed to reach sufficient scale and was withdrawn) and Future Super

(43,785 members). APRA's June 2022 statistics highlight the fund is responsible for the fastest growth in the industry.

Slate Super's early performance is anaemic, and it charges fees that are well above the average. In the 2020/21 financial year, the highest growth stage of Slate's lifecycle product Simple Choice Super returned 13.44% (Annual report). Meanwhile, the industry average for lifecycle products for people aged under 50 years was 21.8% (Rainmaker). This is the most relevant peer group which represents the highest growth options in the market.

Slate Super's fees are also well above average; their total fee on a $50,000 balance is $645 or 1.29% (Slate Product Disclosure Statement). The average for all super funds MySuper option in June 2022 was 1.00%. (Rainmaker)

The ATO standard choice form fails consumers

The ATO standard choice form is also actively leading to the creation of duplicate accounts. People filling out the form need only 'tick a box' to create a duplicate account, versus having to fill in nine data points, many of which take time to discover, in order to keep an existing fund.

Employers can give their own standard choice form

The on-boarding process permits an employer to develop and use their own standard choice form. This typically results in a choice form that is pre-filled with the employer's default super fund.[4] In order for a consumer to take the path of least resistance, all they are required to do is include their name and TFN. Again, this process is likely to circumvent the intent of stapling, and instead create unintended duplicate accounts.

Ensure the ATO is adequately resourced to run a centralised super onboarding service

People should not be encouraged to create duplicate accounts **and** join a fund with poor performance and high fees. Allowing employers or third-party platforms to funnel people into these purchasing decisions leads to demonstrably poor outcomes compared to what the default system is likely to deliver. While we see a place for individual choice, when done in such an information-poor environment, directing people to poor high-fee funds means consumers are bound to be worse off.

[4] https://www.reisuper.com.au/docs/default-source/employer-forms/rei-super-employer-standard-choice-of-fund-form.pdf

To resolve this issue, we see a role for the ATO to be given responsibility for the onboarding process.This could be achieved through a centralised online onboarding service to all new employees. This must be integrated with the super fund comparison tool and the ability to smoothly consolidate accounts. The Government should ensure that the ATO is adequately resourced to undertake this project.

Recommendation 2

That the ATO is appropriately resourced to take over the onboarding process for new employees and it be digitised and enhanced to assist people to find an appropriate fund and clean up duplicates.

Bolster government super and retirement guidance services to reverse the trend of falling financial literacy and retirement planning complexity

Each year Australians put a significant portion of income into our compulsory super system. At retirement, we face a complex and uncertain set of financial decisions that makes it hard to make choices about how to maximise our retirement income. Unlike the accumulation phase, the retirement system does not support people who are disengaged with safe defaults and quality, independent, simple guidance.

Instead, people are left to professional services, like financial advice, which will always be out of reach of the budgets of many Australians. Alternatively, people have access to more affordable but highly conflicted advice general or intra-fund advice options from product providers. A significant portion of Australians are poorly served by existing retirement advice and guidance models. This situation is costing them in retirement. The Quality of Advice issues paper acknowledges this problem and the need for change.

CHOICE's Project Superpower research found that many people 'would like independent, unbiased advice, but they don't know where to turn for financial help.'[5] Our nationally representative survey of pre-retirees and retirees (45-80 y.o.) found more than a third (37%) were looking to take a DIY approach to planning for retirement.[6] This group doesn't look for experts to make decisions, instead relying on themselves to track down useful information and

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[5] Project Superpower, Informing a strategy to engage people with their super, research commissioned by CHOICE,
https://www.choice.com.au/money/financial-planning-and-investing/super/articles/why-consumers-avoid-thinking-about-su per-20161024

[6] Retirement Planning Survey, February 2021, Super Consumers Australia and Fiftyfive5, N=1,541, https://superblog.netlify.app/2021/07/28/nationally-representative-retirement-survey-results/

guidance to help them plan. This group is unlikely to trust in a product provider's advice, particularly if it is influenced by their product offering.

To help navigate this complexity, the Retirement Income Review said, "people need better information, guidance and good, affordable advice tailored to their needs".[7] With the introduction of the Retirement Income Covenant (RIC), which is sparking the creation of many new retirement products, there has never been a more crucial time to get the framework right.

UK government shows how to support and guide

The UK government faced a similar challenge of helping its citizens with retirement guidance. After giving people greater choice of how they draw down their retirement savings they found many people were making poor decisions that risked placing them in financial difficulty. Rather than leaving people to work out solutions on their own, the UK government developed an independent service to help guide people through the complexity.

The service offers free telephone and in-person financial advice to help people understand the risks they need to manage. It backs this up with digital product comparison tools and guidance to help people avoid inappropriate products.

[7] Retirement Income Review, p17

Australia has a headstart in building a similar model. Our services like Moneysmart, the Financial Information Service, Centrelink, the ATO fund comparison tool, My Aged Care all exist, but are not connected up or advertised through a single portal. Our consumer research on engagement with financial decision making has highlighted the need for consumers to have access to a 'one-stop shop'.[8]

Cost of the UK model is minimal

The UK model incurs a modest cost for the number of people it can reach. It's funded via a small levy on each person's retirement savings, which works out to a little over a dollar per UK resident a year.[9] This model is far more efficient and has the potential to be better quality given it

[8] Project Superpower, Informing a strategy to engage people with their super, research commissioned by CHOICE,
https://www.choice.com.au/money/financial-planning-and-investing/super/articles/why-consumers-avoid-thinking-about-su per-20161024
[9] Pension Wise service evaluation,
https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/10/Pension-Wise-Service-Evaluation-report-2019-2020.pdf

separates product from advice. The alternative is to let all 140 super funds, limited by conflicts of interests, inefficiently and at various levels of quality, each create their own guidance.

Recommendation 3

That a Federal Government agency be tasked with connecting up Australia's public retirement services and tools through a single portal to provide quality, impartial guidance on all the products in the market.

Fix default life and disability insurance so that it works for all Australians

Default life and disability insurance in super is a significant part of Australia's social safety net to protect people and their families in time of need. Unfortunately too many people continue to find they are without cover due to fine print exclusions or because they fall outside of the safety net due to their employment situation.[10] All Australians deserve protection that meets community expectations and doesn't automatically limit cover because you work fewer hours a week, in a certain occupation or are making a mental health related claim.

Creating a private market for insurance has contributed to these gaps. For a market to work it requires an informed consumer base who are aware of their wants and needs and have good information on products that can meet them. By contrast in insurance markets people commonly have a poor understanding of their needs and products are riddled with fine print exclusions and impenetrable language. According to our October 2022 Consumer Pulse Survey, 1 in 5 people in a super fund weren't aware whether they had insurance with their super.[11] Only half of those who did have insurance had a good idea of how much it costs them. Only 46% of people who had super insurance found it easy to understand, and only 51% knew the types of situations their super insurance covered them for.

Issues such as restrictive definitions, poor claims handling and a lack of adequate cover for the self-employed, casual and gig economy have their roots in the poor system design. The end result has been a patchwork of protection that has seen some of the most vulnerable Australians fall through the gaps.

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10 https://www.choice.com.au/money/financial-planning-and-investing/superannuation/articles/fixing-insurance

11 Super Consumers Australia, Consumer Pulse, Wave 0 (soon to be released)

Reliance on super to protect people has created gaps for those with no or limited access to super. Self-employed people are less likely to have a default super fund or the default insurance it may provide. As an example, our Consumer Pulse survey found 36% of self-employed people with a super fund reported that they did not have insurance with super, compared to 18% of full time workers and 22% of part time workers.[12]

One third of all super complaints are about group insurance.[13] This is the second most common complaint in the entire super system. Consistently, many of these complaints are about delayed claims. Delay can add to the financial and emotional distress of people who have become disabled/unable to work due to illness or injury.

The Productivity Commission recommended that insurance in super be examined "in the context of the broader policy settings and arrangements in place to provide assistance to people in the event of illness and injury". They called for an independent inquiry that would look at the purchase of life insurance through other channels outside the super system and the extent and consequences of levels of underinsurance, and the intersection of life insurance with other schemes, such as workers' compensation."[14]

The patchwork of insurance schemes in Australia invites these inefficiencies. We need to consider the approach of other countries, such as New Zealand which is currently moving to combine its accident compensation and disability insurance schemes to better protect people.[15]

We recommend the Government investigate the fairest and most efficient way to financially protect people and their families in the event of illness or injury.

Recommendation 4

That the Australian government establish an inquiry into insurance in super with the goal of establishing a fairer, more efficient system for financially protecting people from disability or death.

Pay super at the same time as wages to arrest the scourge of unpaid super on people's retirement savings

[12] Super Consumers Australia, Consumer Pulse, Wave 0 (soon to be released)
[13] https://data.afca.org.au/super
[14] Productivity Commission, 'Inquiry Report: super: Assessing Efficiency and Competitiveness' 2018, p414
[15]

The ATO estimates that the amount of unpaid super is approximately $4 billion.[16] While the majority of employers comply with their obligation to pay super to their employees, non-compliance by some leads to an unacceptably high amount of stolen retirement income.

It is estimated that over 4 million workers are paid super quarterly.[17] Delayed super payments make it very complicated for people to discover if they have been paid the appropriate amount of super. Non-payment can mean people can go for months without realising there is a problem and by the time they act, a business may have gone insolvent. The current compliance framework partly relies on people being able to detect and report if their super has not been paid.

As a solution there is strong public support for a solution. Our recent national survey found that two thirds of Australians agree that super should be paid at the same time as wages.[18] Real time payment will strengthen both individuals and the ATO's ability to identify non-payment of super in a timely manner.

The harm of unpaid super goes beyond reducing people's retirement income. It also can affect the provision of insurance in super. For example, non-payment of insurance premiums due to insufficient funds being available could see a person's insurance become inactive and lead to a claim being denied. This would have a disastrous financial impact on someone who has just become permanently disabled, or the family of a person who passes away.

Recommendation 5

That the Federal Government introduce legislation to require the real time payment of superannuation.

Ensure accessible information of super on deceased estates, so that particularly First Nation family members can easily find and fairly distribute funds when a loved one passes

Super represents a significant household asset and can make up a large portion of the overall asset pool in deceased estates. Many Australians lose track of their super. Some incorrectly nominate beneficiaries for their fund due to the complex and recurrent process for death benefit nominations. When they die, their relatives may not know whether the deceased person had a super account or, if they did, with which super fund(s).

[16]https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/tax-gap/super-guarantee-gap/?anchor=Latestestimatesandtrends#Latestestimatesandtrends
[17] https://www.afr.com/politics/workers-could-soon-be-paid-super-more-frequently-20221223-p5c8js
[18] Pulse

The ATO holds information about all Australians' super accounts. But the law only permits the ATO to disclose information to a legal personal representative of the deceased. This process is time-consuming, costly and complex.

Anecdotally, we hear that First Nations people living in regional and remote communities face greater barriers to accessing a deceased relative's super due to income inequality, lack of support services, lower financial literacy, digital exclusion, and other structural disadvantages. As a result, many families will abandon their search. Some may unknowingly forfeit significant estates held in super funds and the associated insurances.

The case study below details the time, effort and heartache which could be avoided if relatives could more easily access information about the existence of a super account

Case study

Mrs Bally, with the support of a local community organisation, made contact with the Indigenous Consumer Assistance Network (ICAN) financial counselling services about her late husband's super. She was aware that his super had been transferred to the ATO but had no further details. Her husband did not have a will.

Mr & Mrs Bally, were married for thirty-three years, raised five children and were grandparents to fifteen at the time of Mr Bally's passing in 2014.

Mr Bally held positions as a stockman, ranger and policeman, as well as working in the mines and finally in the age care/disability sector. Mr Bally had talked to his wife about super and they had assumed that as his wife, and next of kin, she would have rights to his things, as he would hers.

Despite being advised to and subsequently submitting an Application for Payment of ATO-held super money, along with copies of Mrs Bally's identification, their Marriage Certificate and Mr Bally's Death Certificate, Mrs Bally has been advised by the ATO that no further information will be released until she is recognised as a representative of the estate under tax law. That is, she would need to undertake the Letters of Administration process.

Mrs Bally is raising three of her grandchildren and her great grandchild, and relies on the Single Parenting Pension and Family Tax Benefit. The process of obtaining Letters of Administration is prohibitive both in terms of cost, time and logistics (particularly without knowing the potential benefit that would come from the outlay of the process). It is also quite a complex process and Mrs Bally has said in the past she would need assistance to do this.

After 5 months of effort, in May 2020, ICAN were eventually told by the ATO that they hold a super balance of $35.91 which would be sent by cheque to Mrs Bally soon. The ATO did not not advise if there was any other super sitting with other funds or why the amount was so low. The issue is still not fully resolved to this day.

The ATO recognises the difficulties with the current situation, but say their hands are tied because of the operation of Division 355 of the Tax Administration Act 1953 (Act). To address the gap in the legislation, we propose that section 355-25(2) is amended to include another category of covered entity for the purposes of a deceased taxpayer.

The solution should ensure that First Nations people in particular, but other groups and people experiencing vulnerability, have the ability to easily and freely determine if their deceased relatives have super and its location.

Recommendation 6

That the Federal Government fixes the information-sharing issue in Division 355 of the Taxation Act, which restricts people in vulnerable situations (particularly First Nations people) from easily and freely finding the superannuation of their deceased relatives.