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Discussion paper - Access to offenders' superannuation for victims and survivors of child sexual abuse

Super Consumers Australia supports closing the loophole that currently allows child sexual abuse offenders the ability to hide their assets from compensation orders.

We endorse the submission made by victim of child sexual abuse advocates Knowmore and the prioritisation of their three survivor-focused principles to ensure:

1. As many survivors as possible should be entitled to access their perpetrator's superannuation to satisfy unpaid compensation orders.
2. Eligible survivors should be able to derive the maximum possible benefit from their perpetrator's additional contributions to superannuation.
3. The process for accessing a perpetrator's superannuation should be as simple as possible for survivors to navigate and should limit their exposure to additional costs.

We make the following comment in relation to the issues identified by the paper:

Additional contributions

Super Consumers supports the use of additional contributions. Identifying voluntary contributions made by offenders is objective and simple. Our understanding is that the amount of contributions identified by this definition is likely to be similar to the 'out of character' definition but without subjective administration.

Visibility

Ensuring victims and survivors are able to see the potential super that will be available to them is an essential part of closing this loophole. We support the operation of a similar model to the existing visibility super tool used in family law proceedings.

Any design of a visibility mechanism should ensure that the offenders additional contributions and the fund they are in are visible to the court. This may require the mechanism to report all of the offenders' super funds in addition to the 'additional contributions'. This would ensure they cannot hide their assets by rolling out their 'additional contributions' to a different super fund.

Consideration should also be given to protections that the ATO and APRA funds can apply to ensure offenders are unable to hide super through other mechanisms. This could include:

- Determining if the ATO can identify and disqualify individuals who are charged with these offences from being trustees of SMSFs
- Determining if the court could direct APRA funds to identify members who are charged with these offences and,
 - Restrict rollovers to SMSFs
 - Restrict rollovers of additional contributions after the member is charged