

16 February 2023

Director, Tax and Compliance Unit
Retirement, Advice and Investment Division
The Treasury
By email: superannuation@treasury.gov.au

Dear Director,

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

1. Women's Legal Service NSW (**WLS NSW**) thanks Treasury for the opportunity to comment on this discussion paper.
2. WLS NSW is a specialist accredited women-led community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.
3. The initiative to facilitate access to funds to compensate victims of child sexual abuse is welcome.
4. We agree that the definition of child sexual abuse offence is appropriate.
5. In relation to the proposed period within which additional contributions could be accessed, we suggest that the relevant date is the date on which the offender in fact became aware of the charge, rather than a set length of time, as investigations of historical matters can take some time and the offender may become aware of the investigation some time before charges are laid.
6. Once 'additional contributions' are identified, such contributions should be accessible regardless of whose superannuation account the funds are in. There is no basis for restricting it only to a spouse.
7. We make no comment about defined benefits or bankruptcy proceedings as these are beyond our area of expertise.
8. We agree that access to funds should follow completion of any family law property proceedings.



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However, in the event of a claim being settled before family property proceedings are contemplated, it should be ensured that the spouse receives a split of the super based on the super pool that would have existed had there not been a payment of compensation to the victim survivor.

9. There may be situations in which superannuation received in family law proceedings should be considered 'additional' such as if the offender is a dependent of a very wealthy spouse, but we consider such situations to be rare.
10. We support any measures in relation to tax that would maximise the benefit to the victim-survivor.

If you would like to discuss any aspect of this submission, please contact me or Liz Snell, Law Reform and Policy Coordinator on 02 8745 6900.

Yours faithfully,

Women's Legal Service NSW

Helen Campbell OAM
Executive Officer