

SUBMISSION ON POLICY ISSUES RAISED IN ROUND 5

The purpose of this submission is to make a link between the findings of the Royal Commission and a systemic issue in Defined Benefit Funds. To date the Royal Commission has looked at its findings mainly in relation to systemic issues in Defined Contribution Funds. The amounts involved in Defined Benefits Funds are much larger than those identified so far in Defined Contribution Funds. Because of the complexity of Defined Benefit Funds many members who have been affected would not even realise they have not received their full entitlements. Because of my background as an Actuary I can see this issue clearly and I offer the Royal Commission my experience for the benefit of the many members who are impacted in the same way as me.

The Royal Commission has made the following findings

1. The Trustees of Superannuation Funds have acted inappropriately as follows
 - a. Trustees are not exercising their powers in the best interest of members
 - b. Trustees are not giving priority to the financial interests of members over the financial interests of companies
 - c. Trustees have failed to take steps to properly manage their conflicts of interest
 - d. Trustees have failed to exercise the degree of care, skill and diligence as a prudent Superannuation Trustee
2. APRA has acted inappropriately as follows
 - a. APRA have not commenced court proceedings in superannuation in the past 10 years
 - b. APRA have not specifically formed the view that Superannuation Fund Trustees were not acting in the best interest of members
 - c. APRA have failed to focus on their prime objective of ensuring that Superannuation Funds meet their promises and obligations to members

I have attached my submission to the Royal Commission. This sets out one of the systemic issues in Defined Benefit Funds demonstrating that members accrued benefits have not been protected. As a result, significant amounts of money that members should have been entitled to has incorrectly been returned to companies and artificially boosted their profits.

This has been caused by the inappropriate and illegal behaviour of Trustees, identified by the Royal Commission, in the first instance. Trustees have failed to recognise the differences between a Superannuation Trust and any other trust.

This issue has been compounded by APRA's inactivity and inability to focus on their prime objective of ensuring Superannuation Funds meet their promises and obligations of members. In this instance APRA have been unable to protect members Accrued Benefits.

APRA identified that [REDACTED] were incorrect in their interpretation of Accrued Benefits in a letter sent to me which I have attached. I was unable to use this letter as, despite numerous requests, they refused to appear in Court even though this is clearly a systemic issue focussed on their prime objective of ensuring Superannuation Funds meet their promises and obligation to members. We would have had a completely different outcome had APRA appeared and given evidence to support the appropriate definition of Accrued Benefits intended by the SIS legislation.

At the time of my dispute [REDACTED] had a surplus in the fund of over [REDACTED] and had not contributed to the fund for decades by not protecting members accrued benefits. Because of the complexity of this issue many members would not be aware that they were not getting all their Accrued Benefits. There are thus many members affected and a large amount of money that should be paid to members.

This issue has been identified in many countries and rectified by passing appropriate legislation. This is also set out in my Royal Commission submission. APRA should have identified this systemic issue and had legislation passed to fix it. At the very least they should have appeared when we asked them to give evidence in my case.

I would encourage you to make Trustees and APRA accountable for their inappropriate behaviour both in Defined Contribution and Defined Benefit Funds. I would be happy to help you navigate your way through this Defined Benefit issue to ensure members Accrued Benefits are protected.











