

HESTA Submission- Review of the Family Law System - November 2018

HESTA welcomes the opportunity to make a submission in response to the Australian Law Reform Commission (ALRC) consultation paper on the Family Law System released in October 2018.

HESTA has only provided brief comments in relation to the superannuation issues.

About HESTA

HESTA is an industry superannuation fund, established in 1987 to provide retirement benefits for workers in the Health and Community Services Sector, and we operate only to benefit members. We have over 860,000 members (80% female) and manage over \$47 billion of members' assets.

The typical HESTA member is aged 43, female and has a balance of approx. \$22,000 in superannuation.

Because of our traditional industry base our members are:

1. More likely to live for five years longer than an average Australian male
2. More likely to suffer the inconsistencies and discrimination of the gender pay gap
3. More likely to take time out of the workforce on periods of unpaid leave
4. More likely to be at risk of poverty in retirement.

Our purpose is to make a real difference in the financial future of every member. The settings of the system impact our members, both in the way they enter and interact with superannuation.

We welcome the opportunity to discuss the submission further, should you have any queries please contact James Bennett, Social Impact Specialist, 03 8665 9217 jbennett@hesta.com.au

Superannuation and family law

Superannuation is primarily intended to provide for income in retirement; however, there are situations where other uses may be appropriate. We recognise this is a difficult area of policy given the inherent trade-offs between immediate necessity and long-term needs.

We emphasise that superannuation should not be used to address structural or systemic policy problems in other areas. Issues that lead to super being used for other purposes should be examined and addressed where possible - superannuation should not be used as a proxy for social security and other government assistance.

HESTA has previously advocated for:

- Access to super for family violence victims and survivors;¹
- Consideration for victims of crime to access the perpetrators superannuation;²
- Early release in certain circumstances;³ and
- The WA government to allow de facto couples to split their superannuation when relationships end.⁴

We are supportive of the ALRC Proposals **3-15**, **3-16** and **3-17** and believe they would assist in navigating the complex processes associated with superannuation splitting. In many low income households superannuation can be the largest asset – it is important that mechanisms exist to ensure women are not denied an equitable share in the event of relationship breakdown.

We note the *'Small Claims, Large Battles'*⁵ report by the Women's Legal Service Victoria and endorse their recommendations regarding superannuation and the recent submission they have made to this Review of the Family Law System.

In relation to Question 3-2 regarding early release of superannuation we have attached HESTA's submission to the Review conducted by Federal Treasury in early 2018.

¹ <https://www.abc.net.au/news/2017-06-20/domestic-violence-victims-should-have-access-to-super-fund-says/8635570>
<https://www.hesta.com.au/content/dam/hesta/Documents/media/HESTA%20calls%20for%20access%20to%20super%20for%20family%20violence%20victims%20and%20survivors.pdf>

² <https://treasury.gov.au/consultation/c2018-t293803/>

³ <https://treasury.gov.au/consultation/c2017-t246586/>

⁴ <https://probonoaustralia.com.au/news/2017/07/calls-super-splitting-wa-de-facto-couples/>

⁵ <https://womenslegal.org.au/creating-change/small-claims%2C-large-battles.html>