

Superannuation death benefit claim guide

What you need to know

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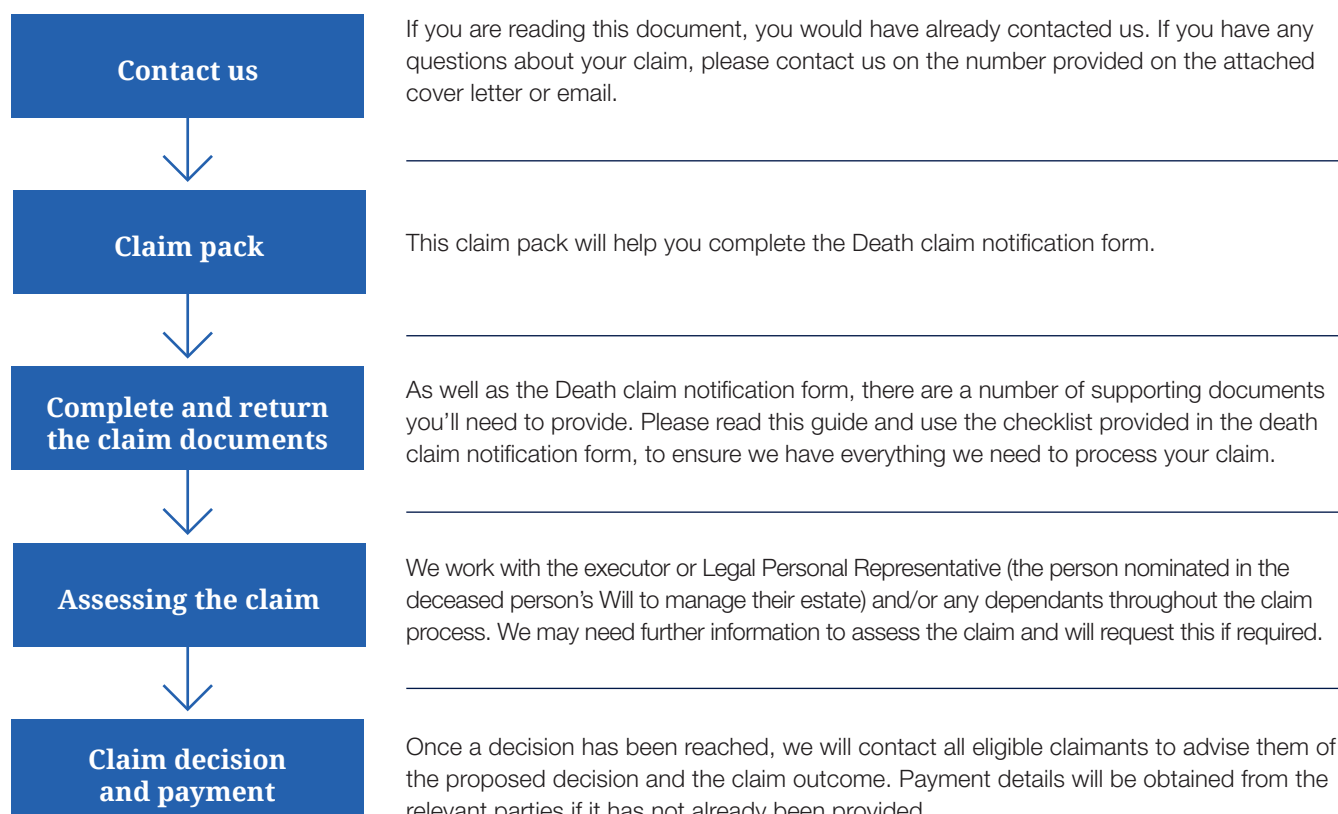
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We understand that dealing with the loss of a loved one may be a difficult time for you and your family. We are here to support you through the claim process. This guide will help you complete the Superannuation death claim notification form. If you have further questions, please call our customer contact centre.

Note: Depending on the product in question, there are references to the **Trustee** or **Issuer**. The **Trustee** is the company (in this instance is Equity Trustees Superannuation Limited – ETSL) appointed as the Trustee of the Fund, or the **Issuer** is the company that offers the financial product (in this instance Resolution Life Australasia Limited).



Key information to complete the Death claim notification form

This guide provides further details on how to complete the Death claim notification form, and each step below corresponds with each step in the form, to help you navigate filling out the document.

Step 1 – Details of the deceased member

Please provide the personal details of the deceased member, including their date of birth and their date and cause of death.

Step 2 – Details of person completing this form

You may be notifying under the following relationships:

- spouse or de facto spouse
- late member's children or dependants
- someone with whom the member had an interdependency relationship
- the Executor of the deceased person's Will
- Legal Personal Representative acting for the deceased's estate or
- any other person who may have an interest in the benefit.

Who is eligible to be a potential claimant?

A member's dependant, who may include:

- a spouse (legal or de facto)
- a child of any age (including natural, adopted, step-child)
- any other person who in the opinion of the Trustee or Issuer is wholly or partially financially dependent on the member at the time of the member's death or
- any person who meets the definition of having an interdependency relationship with the member at the time of the member's death.

If there are no dependants, the Trustee or Issuer may consider paying the benefit to the deceased's estate. When this happens, Probate or Letters of Administration may be required.

Who is an Executor?

The Executor administers the deceased person's Will. The Executor must locate the Will and follow the instructions given in the Will. This includes finalising any debts and distributing the assets in accordance with the deceased person's instructions.

Who is a Legal Personal Representative?

Legal Personal Representative (e.g. a solicitor or Power of Attorney) in Superannuation Law is:

- a. subject to paragraph (b) below, a person does not have a Legal Personal Representative unless:
 - i. a Grant of Probate has been made
 - ii. Letters of Administration have been issued or
 - iii. such equivalent authority the Trustee or Issuer determines reasonable in circumstances of jurisdiction outside Australia.
- b. If the Trustee or Issuer is reasonably satisfied that the value of the estate is less than the amount which the Trustee or Issuer specifies as the 'probate limit' (this is generally when the value of the estate is less than \$100,000), then the Trustee or Issuer may treat a person who does not meet the criteria (a) above but who the Trustee or Issuer is reasonably satisfied will, in practice, be informally performing the role of executor or administrator of the deceased person's estate for all purposes as if they were the person's Legal Personal Representative.

Step 3 – State of affairs at the time of death

There are a number of questions and documents required to help us better understand the deceased member's estate arrangements and any potential claimants.

What is Grant of Probate?

Probate is the proving of a Will in the Supreme Court of the appropriate State or Territory. The Court determines if the Will is valid. The Grant of Probate is the certificate issued by the Supreme Court, which names the executor(s) and confirms that the Will is the last known Will of the deceased. Once probate is issued, the executor(s) (also known as the Legal Personal Representative) has the authority to distribute the assets of the deceased's estate, as directed in the Will.

What are Letters of Administration?

If the deceased did not leave a valid Will or left no Will at all, they are said to have died intestate. An administrator will be appointed to manage the estate. When the Supreme Court of the appropriate State or Territory appoints an administrator, the document issued by the court is called Letters of Administration. The administrator named in the Letters of Administration is the Legal Personal Representative of the deceased's estate.

Each estate's circumstances vary, and a Grant of Probate or Letters of Administration may not always be required. If Probate or Letters of Administration are not being sought (this is generally when the value of the estate is less than \$100,000), we may require a Statutory Declaration. If a Statutory Declaration is required, we will contact the person(s) who must provide the Statutory Declaration.

What is a solvent estate?

Do you know if the estate is solvent or not? A solvent estate is an estate where the assets of the estate exceed the debts. This essentially means all the assets have a combined value which is greater than any bills that are owed, and there are enough assets to pay off the creditors.

Step 4 – Marital status at the time of the member's death

Please provide details of the member's marital status and their relationship history.

Step 5 – Dependants

To help us identify all potential claimants, please provide details of the deceased's dependants and children.

Who is a dependant?

A **dependant** includes a spouse (legal or de facto), child (natural, adopted, step-child or ex-nuptial of any age), any other person with whom the deceased had an **interdependency relationship**, or any other person who was considered financially dependent on the deceased at the time of death.

Please note that a person (whether or not related by family) is said to have an interdependency relationship if all the following conditions are met:

- they have a close personal relationship and
- they live together and
- one or each of them provides the other with financial support and
- one or each of them provides the other with domestic support and personal care.

An interdependency relationship also exists if two people have a close personal relationship but don't satisfy the other criteria because one or both of them suffer from a physical, intellectual or psychiatric disability or are temporarily living apart, for instance, because of work.

Step 6 – Privacy

It's important that you read and understand this information so that you know how we manage your personal information.

Step 7 – Declaration

The declaration is to confirm that the notifying person(s) is/are legally entitled to lodge the claim, have read and understood the Privacy Disclosure provided on the form and provides consent.

Please refer to the **How to confirm your identity** document included in your pack for more details on how to certify documents.



Step 8 – Payment details

Here we ask you to provide details about where to pay the claim.

Step 9 – Document checklist

Please provide a certified copy of the documents listed on the checklist.

How to certify a document?

Each document provided as part of your claim must be certified to be a genuine copy of the original documents, sighting the original and the copy to ensure both are identical.

On a **single-page** document, the authorised person must write or stamp *'This is a certified true copy of the original as sighted by me'*. If it is a **multi-page** document, *'I certify this and the following X number of pages to be a true copy of the of the original as sighted by me'* on the first page and initial all the other pages. The authorised person must also date, provide qualification (e.g. Justice of the Peace), registration number, and sign and print their name on the document.

Authorised persons include a Justice of the Peace, solicitor or medical practitioner or anyone who can certify documents under the *Statutory Declaration Act 2018*.

Please refer to the **How to confirm your identity** document included in your pack for more details on how to certify the documents.

The Trustee or Issuer responsibilities

The Trustee or Issuer, in accordance with the requirements of superannuation law and the Trust Deed for the product, have discretion over how a superannuation benefit is paid. If the Trustee or Issuer needs to exercise its discretion for payment of the benefit, before the benefit is paid, the Trustee or Issuer must make enquiries about all potential dependants.

Under the *Superannuation Industry (Supervision) Act 1993 ('SIS')* or *Retirement Savings Account Act 1997 (RSA)*, the Trustee or Issuer can only pay a death benefit to a person who qualifies as a dependant (as defined in SIS or RSA Act) of the deceased at the date of death and/or the deceased's Legal Personal Representative. When making a determination, the Trustee or Issuer must take into consideration the circumstances and needs of each and every potential dependant.

Frequently asked questions

How does the Trustee or Issuer decide who the benefit will be paid to?

A Trustee's normal process is to pay a death benefit to a dependant in the first instance. Superannuation death benefits are not generally used to pay the debts of a deceased person's estate. The purpose of superannuation is to provide for a person in their retirement or for their dependants in the event of their death. A discretionary distribution would only be made to the member's estate if there are no dependants.

For products that do not have a Trustee, the Issuer would normally pay the death benefit to the Estate if there is no valid nominated beneficiary.

In some cases, where there is a Binding or Non-Lapsing Nomination of Beneficiaries (see pages 8, 9,10), the benefit must be paid in accordance with that nomination. The nominations are like a Will for superannuation, as the member's Last Will and Testament does not have the power to decide where their superannuation money is allocated, unless it is paid to the Estate.

How long does it take to make a decision?

For products that do not have a Trustee, the Issuer would normally pay benefits to the Estate if there is no valid nominated beneficiary, with no further enquiries required. Once we have received all requirements, a decision is generally made within 10-15 business days.

For products with a Trustee, based on the information provided, the Trustee may decide who will receive a benefit or they may request further information before making a decision.

Once the Trustee makes their decision, they must inform all potential claimants. All potential claimants have the opportunity to object to the decision within 28 days of receipt of the letter.

Payment of death benefits are generally paid within another 10-15 business days, once all requirements have been received.

If there is a disagreement with the Trustee or Issuer's decision, the Trustee or Issuer may request further information from the parties and may review its original decision. Any disagreement can be lodged in writing or made verbally.

If no notice of disagreement is received within the prescribed period, the Trustee will write to the claimant(s) informing them of the final decision.

What if a potential claimant disagrees with the Trustee or Issuer's decision?

The Trustee will review its decision where there is a dispute (disagreement). If the Trustee maintains their original decision, the complainant will have a further 28 days to lodge a complaint with the Australian Financial Complaints Authority (AFCA).

If a complaint is lodged with AFCA, we will be unable to pay any benefit until the complaint is resolved. If no complaint is lodged with AFCA within the prescribed period, the Trustee or Issuer will inform the person(s) who will receive the benefit.

How do I make a complaint?

If you wish to lodge a complaint, you can write to our Customer Resolutions team:

Email: au.service@resolutionlife.com.au

Post: Resolution Life Customer Resolutions
PO Box 234
Parramatta NSW 2124

If you are not satisfied with the final decision, you may lodge a complaint with AFCA. AFCA imposes time limits within which to lodge a complaint with them.

You can contact AFCA by:

Phone: 1800 931 678 (free call)

Mail: Australian Financial Complaints Authority
GPO Box 3
Melbourne, VIC 3001

Website: afca.org.au

Email: info@afca.org.au

Are there any other relevant documents I can provide to help the Trustee or Issuer in making a determination?

Yes. Whilst we don't ask for these, some less common documents that might be required may include:

- Decree Nisi (pending divorce) if there were divorce proceedings active at the time of death
- evidence of dependants not listed (see Section 6)
- evidence of a de facto relationship
- evidence of custody or guardianship of minor children
- death certificate of a pre-deceased spouse or
- evidence of binding death benefit or reversionary pension nomination.

- For an **interdependency** relationship between de facto partners, parent/child or siblings, you can provide the following documentations to support your claim:

1. Proofs of:

- bills in joint names
- joint ownership of property (including real estate, furniture, vehicles etc.)
- lease agreement
- bank statements for at least two or three years prior to the member's death, showing transfers made to one party by the other in order to establish that it was a regular, ongoing form of financial support
- loan agreements or
- Centrelink records.

2. Statutory declarations from at least two people not related to the deceased member confirming:

- duration of the relationship
- reputation and public aspects of the relationship
- the degree of commitment to a shared life or
- the parties intended the relationship to be permanent.

In addition, for parent/child or siblings interdependency, a statutory declaration from at least two people not related to the deceased member can be provided to support your claim:

- how long the member had been living with the parent/child pre death
- one or each of them provides the other with domestic support and personal care or
- the degree of commitment to a shared life.

You may be asked to provide further documentation and we will let you know specifically what may be required.

What is the difference between a lapsing and a non-lapsing nomination?

A lapsing nomination refers to a beneficiary or beneficiaries' nomination that is subject to time constraints. The Trustee or Issuer must pay a death benefit to the beneficiary or beneficiaries nominated by the deceased person and in such proportions as they have specified, provided:

- each nominated beneficiary is a dependant or the Legal Personal Representative at the time of death.
- the lapsing nomination is current at the time of the deceased person's death, i.e. the form containing the nomination has been confirmed or amended within three years after the day it was first signed, or last confirmed or amended by the deceased.
- the lapsing nomination is in writing and two persons over the age of 18 years who are not nominated beneficiaries, have witnessed the deceased signing the nomination.



A non-lapsing nomination is the nomination of a beneficiary or beneficiaries that, if it satisfies all legal requirements, will not expire over time. In addition, the Trustee or Issuer is required to pay the deceased's benefit to the nominated beneficiary or beneficiaries in the proportions that were specified. This is subject to the beneficiary or beneficiaries being either a dependant at the time of the deceased's death, or the Legal Personal Representative (Estate) and the non-lapsing beneficiary nomination being current at the time of death.

What is the difference between Binding and Non-Binding death benefit nomination?

If the deceased made a binding death benefit nomination, the Trustee or Issuer will need to ensure that the nomination is still valid. If it is valid, the benefit will be paid in accordance with the nomination. If the deceased made such a nomination, it will be indicated on their policy's Annual Statement.

If there is a non-binding nomination, no nomination, or the binding nomination is invalid, the Trustee or Issuer will need to make the final decision on who the benefit will be paid to.

Is there a time limit to a claim of a death benefit?

There is no time limit to claim a death benefit, however we recommend lodgement of the claim as soon as possible. The Trustee or Issuer will be required to pay monies to the Australian Tax Office (ATO) after a period of time and if they meet the criteria to be considered **Unclaimed Monies**. Please refer to the ATO website ato.gov.au for more information.

Additional helpful information

The Trustee or Issuer may be required by law to withhold tax from payments made. Below is some information that may help you in relation to the tax treatment of any death benefit payment you receive:

Tax on a death payment as a lump sum

Payment to:	Is tax payable?
A dependant including: <ul style="list-style-type: none"> • surviving spouse or de facto • former spouse or de facto • any child (under 18) of the deceased • any person financially dependent on the deceased at the time of death or • any person in an interdependent relationship with the deceased at the time of death. 	No
The trustee of the deceased estate where the beneficiaries are dependants of the deceased	No
A non-dependant of the deceased	Yes – the taxable portion will be taxed at 17 per cent and any untaxed element will be taxed at 32 per cent*. If the tax file number of the non-dependant is not provided, tax will be paid at the highest marginal tax rate (plus the Medicare levy).

* These figures include the Medicare levy.

Tax on a death payment as an income stream

Payment to:	Is tax payable?
A dependent aged 60 or over	No
A dependent under the age of 60	No – not when the deceased is aged 60 or over [^] . Yes – when the deceased is aged under 60. In that case the taxable components of the income are taxed at marginal rates less a possible tax offset.
A dependent child of the deceased under the age of 25	No – not when the deceased is aged 60 or over [^] . Yes , when the deceased is aged under 60 the taxable components of the income are taxed at marginal rates less a possible tax offset. The benefit must be paid as a lump sum (tax free) when the beneficiary turns 25 unless the dependent child has a qualifying disablement. If this is the case, the child can elect to take a lump sum or continue the income stream.
A non-financial dependant	Must be paid as a lump sum and cannot be received as an income stream. The taxable portion will be taxed at 17 per cent and any untaxed element will be taxed at 32 per cent [^] . If the tax file number of the non-dependant is not provided, tax will be paid at the highest marginal tax rate (plus the Medicare levy).

[^] If there is an untaxed element in the taxable component, this element will be taxable at marginal tax rates less a possible tax offset.

Please note: In the Tax Act, the meaning of the term **dependant** is slightly different to the meaning in SIS and RSA Act. The Tax Act does not count a child over 18 as a dependant whereas SIS or RSA Act classifies any child of the member as a dependant. It is also possible that you may be considered a **financial dependant** under SIS and not under the Tax Act.

Contact Resolution Life customer service

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