

Making a death claim

1 July 2023

All our forms and publications are available at spiritsuper.com.au/forms or call us on **1800 005 166**, and we'll send you a copy.



Losing a loved one is never easy, so we do everything we can to make our death claim process as simple and efficient as possible. This fact sheet explains the process for claiming a member's super balance, including any insurance, after they pass away.

What's payable when a member has passed away?

When a member's super is paid after they pass away, it's called a 'death benefit'. A death benefit may include:

- the account balance of the deceased member and
- an insurance amount if the member had death cover when they passed away.

If the member had death cover when they passed away, we'll lodge the claim with the insurer. If an insurance amount is approved, this will be included in the death benefit.

Death claims process

Below is a brief overview of the death claims process from start to finish.

Call us

- You can let us know that a member has passed away on **1800 005 166**.
- We'll ask you some questions about the member and talk you through the next steps.

Apply

- We'll send you some forms and a list of the information you'll need to provide.
- We'll also send out forms to any beneficiaries the member nominated, and to any potential beneficiaries we identify as part of the claims process if the member didn't have a binding or reversionary nomination in place.
- We'll contact you if we need more information.

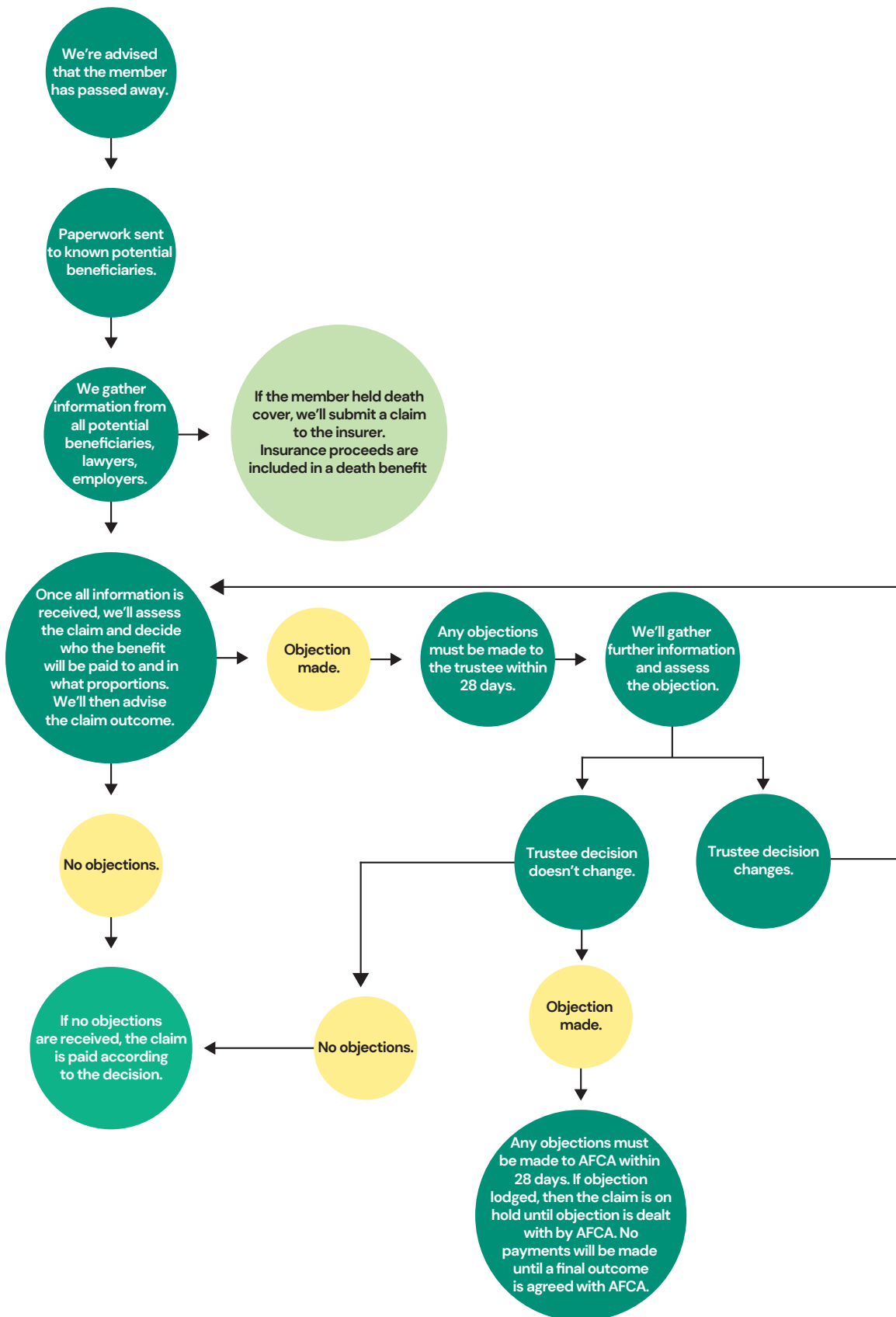
Assess

- We'll assess all information before making a decision about who to pay.
- This can take some time if we don't receive all the information we need, if additional potential beneficiaries are identified, or if there are competing claims.

Confirm

- When a decision has been made, we'll write to all relevant parties to let them know who'll receive the payment and in what proportions if paid to more than one person.

This is general information only and doesn't take into account your objectives, financial situation or needs. Before making a decision about Spirit Super, you should consider if this information is right for you and read our *Product disclosure statements*, *Target market determinations* and *Financial services guide*. These are available at spiritsuper.com.au/pds or by calling **1800 005 166**. | Issuer is Motor Trades Association of Australia Superannuation Fund Pty Ltd (ABN 14 008 650 628, AFSL 238718), the trustee of Spirit Super (ABN 74 559 365 913). Any advice is provided by Quadrant First Pty Ltd (ABN 78 102 167 877, AFSL 284443) (Spirit Super Advice), which is wholly owned by the trustee. A copy of the *Financial services guide* for Spirit Super Advice is available at spiritsuper.com.au/financial-services-guide or by calling us on **1800 005 166**.



! Why can a claim take so long?

Because everybody lives different lives, every death claim is unique too. There are many steps involved in assessing a claim, which can take months to complete.

We need to assess all relevant facts to ensure that the benefit is being paid to the right person/people and must wait for all necessary information to be provided before making a decision.

If any objections to the decision are received, further information may be required before a review of the decision can take place.

We won't pay any of the death benefit until all issues are resolved.

Who receives the death benefit?

If the member ...	We will ...
made a binding nomination.	<p>check to see if the nomination is valid and pay to those nominated.</p> <p>If a valid binding nomination exists, we must pay the benefit to whoever the member nominated and in the proportions they chose — even if the member’s circumstances changed since they made the nomination.</p> <p>For example: a member nominates their two children as beneficiaries. A year later, they have a third child and don’t update their nomination. In this case, the benefit would only be paid to the two nominated children.</p> <p>If the nomination isn’t valid when they pass away, we’ll work out who to pay the benefit to as though the member had a non-binding nomination.</p> <p>This may occur in the following circumstances:</p> <ul style="list-style-type: none">• the nomination has expired• any of the nominated individuals are no longer a dependant of the member• the member separates and finalises their property settlement with their spouse• the member commences a relationship with a new spouse• any of the nominated dependants or legal personal representative passes away before the member.
made a non-binding nomination.	<p>take the nomination into consideration. However, we aren’t bound by the instruction if we decide we have an obligation to pay someone else.</p> <p>If you’re nominated as a non-binding beneficiary, the member has told us that they’d prefer that you receive an amount when they pass away. However, it’s ultimately up to us to decide who gets a death benefit based on super laws and governing rules.</p> <p>Before deciding, we’ll follow our <i>death claim process</i> to identify all potential dependants or legal personal representatives.</p>
didn’t make a nomination.	<p>follow our <i>death claim process</i> to identify all potential dependants or legal personal representatives before making a decision.</p>
had a reversionary pension account.	<p>continue to pay the deceased’s pension payments to the nominated spouse.</p> <p>If they’re no longer the member’s spouse when the member passes away, the benefit will be paid at our discretion.</p>

Who can apply for a payment?

Under super laws, we must pay a death benefit to one or more of the member’s legal personal representative and/or their dependants. We can only pay someone else if we haven’t found either of these.

A legal personal representative is either:

- the estate’s executor (if the deceased had a Will)
- the estate’s court-appointed administrator (if the deceased didn’t have a Will).

If some or all of the death benefit is to be paid to the legal personal representative, this benefit will form part of the deceased estate and will be distributed according to the member’s Will. If the member didn’t have a Will, laws on dying without a Will apply.

For super purposes, a dependant can be any of the following:

- the member’s spouse (including a de facto partner)
- the member’s children of any age (including natural, step and adopted children)
- any person who was financially dependent on the member when they passed away
- any person who had an interdependent relationship with the member when they passed away.

Family members aren’t always eligible

Parents and other family members (such as grandparents, brothers and sisters) aren’t automatically eligible to receive a death benefit. To be eligible, you must prove that you were financially dependent or in an interdependent relationship with the member when they passed away.

A financial dependant

You may be a financial dependant if you relied on the member for some or all your financial needs at the time they passed away.

For example, you relied on the member to help pay rent or mortgage payments on an ongoing basis, and your standard of living couldn't be maintained without their assistance.

To be considered a financial dependant, you must provide evidence that you relied on the member to help meet daily living expenses such as utility and household expenses, rent and shared financial commitments like mortgage repayments or other loans.

Interdependency relationship

You may have had an interdependency relationship with the member if all of the following applied when the member passed away:

- you lived together
- you had a close personal relationship
- one or each of you provided the other with financial support
- one or each of you provided the other with domestic support and personal care.

You may have had an interdependency relationship if you have a close personal relationship but didn't live together because either or both of you suffer from a physical, intellectual or psychiatric disability.

To be considered in an interdependent relationship, you'll need to provide information and evidence to confirm the existence of the relationship.

How do we decide who gets a death benefit?

If a member passes away without a valid binding nomination or a reversionary pension account, we consider all potential beneficiaries and decide who receives the member's death benefit.

! We must consider what might have occurred had the member not passed away and whether anyone had an expectation or a right to look to the member for ongoing financial support.

When making a decision we consider:

- the deceased member's wishes
- the relationship between the member and the potential beneficiaries
- the amount of money involved
- the potential beneficiaries' needs
- who the member would likely have shared their money with if they hadn't passed away
- any other relevant factors.

We usually gather information from more than one person and consider the circumstances of each applicant at the time the member passed away.

Generally, a spouse and minor children will be prioritised over other claimants, such as financially independent adult children.

Although we aim to administer death benefits fairly and reasonably, there are times when a beneficiary or potential beneficiary isn't satisfied with our decision.

Beneficiaries may believe they should inherit equally, though this isn't necessarily the case. The needs of some beneficiaries, such as minor children, will take precedence over the expectations of financially independent adult children.

! The purpose of super is to provide retirement benefits for a member, or in the event of death, to provide for those who had a right to look to the member for financial support had the member not passed away. Paying debts of the deceased member's estate or righting past wrongs isn't the purpose of super.

What if you disagree with the decision?

If you disagree with our decision, you have 28 days to object.

If we receive an objection

We'll let potential beneficiaries know and may ask for further information before we review our decision.

- **If the decision changes** – beneficiaries are notified in writing and a further 28-day objection period will commence.
- **If the decision doesn't change** – this will be our final decision and beneficiaries will be notified in writing.

No portion of the death payment will be paid until all issues have been resolved.

You may also contact the Australian Financial Complaints Authority (AFCA) on **1800 931 678**, although AFCA won't normally deal with a complaint until it has been through our internal complaints handling process. AFCA is an independent body established by the Australian Government to assist members and beneficiaries in resolving certain types of complaints with fund trustees.

You must lodge a complaint with AFCA within 28 days of our final decision.

Our *Complaints handling policy* is available at spiritsuper.com.au/complaints-policy.

For more information about AFCA visit afca.org.au.

What do you need to provide?

! Please read all the information we send you carefully. The details and evidence you provide will help us decide who should receive death benefit payments and how much.

We may ask you to complete or provide the following:

- a *Death claim information request* form — this may be completed and signed by potential beneficiaries/legal guardians, the lawyer for the deceased if applicable, or the legal personal representative of the deceased if applicable
- a certified copy of the *full death certificate*
- a certified copy of the deceased's *birth certificate* or photo ID
- a certified copy of the deceased's *marriage certificate* and/or *divorce certificate* (if applicable)
- a certified copy of the deceased's last *Will and testament* (if any)
- *Grant of probate* or *Letters of administration* if the estate has been or will be probated — this will apply if a Supreme Court has appointed an administrator to the deceased's estate
- certified copies of the birth certificates of any minor children of the deceased
- if you're claiming financial dependency or interdependency, we'll require evidence of financial dependence. This may include statements from bank accounts/loans.

We may need to request further information from you, other potential beneficiaries or other parties as necessary.

! Providing us with all the required information and completing your forms correctly will speed up the claim process.

We know that getting these documents can take some time. We'd appreciate you sending us what you can while you obtain the others so we can keep the claim process moving.

How can you certify documents?

Take a photocopy and your original documents to an authorised person who will witness, sign and declare that the document is a true and correct copy of the original.

The following people are examples of people who can certify documents:

- a police officer¹
- a permanent employee of Australia Post with five or more years of continuous service
- a financial adviser or planner
- a finance company officer with five or more years of continuous service
- a legal practitioner
- a medical practitioner, nurse or midwife
- a pharmacist
- an architect
- a dentist
- an optometrist
- a chiropractor, physiotherapist or occupational therapist
- a teacher employed at a school or tertiary education institution
- a judge, registrar or deputy registrar of a court¹
- a magistrate¹
- a Chief Executive Officer of a Commonwealth court
- a Justice of the Peace¹
- a notary public officer¹
- an Australian consular officer or an Australian diplomatic officer¹
- an officer with, or an authorised representative of, a holder of an Australian Financial Services Licence, with two or more years of continuous service with one or more licensees
- any person listed in Schedule 2 of the *Statutory Declarations Regulations 2018*.

¹If you live overseas, these people can certify your documents.

Payment

Once we've finalised who'll receive the death benefits, we'll get in touch with recipients to confirm payment details.

Payment can be made as a lump sum or a death benefit income stream (if eligible). We may establish a trust for minor children.

Frequently asked questions

Can funeral expenses be reimbursed from the death benefit?

No. No specific provision under super laws or our trust deed permits payment or reimbursement of funeral expenses from a death benefit.

Any person who has paid funeral expenses isn't, by reason of that payment, considered to be a dependant for super purposes.

What if I don't want to make a claim?

We still request that you complete the *Death claim information request* form, as it helps us understand who may be potential beneficiaries. You can advise us on the form that you don't want to make a claim.

What happens to payments to a minor child?

If we approve a payment to a minor child, it can be paid in several ways. We may establish a trust, a death benefit income stream, or payment can be paid to the surviving parent or legal guardian in the child's name. Please let us know of any information that could assist us in making this decision.

Do I need a lawyer?

Our claims process has been designed so that you or your family shouldn't require the assistance of a lawyer when making a claim.

If you're thinking about getting legal help, you should consider the costs involved in doing so and how they'll impact any benefit payouts.

6 What happens to the investments?

When advised that a member has passed away, we switch their account balance to the Cash investment option. This protects the money against potential negative returns while assessing the claim.

This doesn't apply if the member was in a defined benefits fund or for a reversionary pension.

Isn't super part of the member's estate?

No. Super doesn't automatically get included in a deceased estate and isn't necessarily paid out as part of the Will unless the member had a valid binding nomination to their legal personal representative in place when they passed away.

Is a death benefit payment taxed?

You won't pay tax on a lump sum death benefit if you're classed as a dependant for tax purposes at the date of the member's death. This includes:

- a spouse or former spouse (including de facto partner)
- a child under age 18
- any person who's financially dependent on the deceased member or
- any person the deceased member had an interdependent relationship with.

Children aged 18 and over must be financially dependent on the member at the time of death to be considered a dependant for tax purposes. Adult children who aren't financially dependent can still receive super death benefits. However, they'll be assessed as non-dependants for tax purposes.

If you aren't a financial dependant we must deduct tax from your payment.

! Tax on super is complicated. Read our *How super is taxed* fact sheet for more details. For more information, contact the Australian Taxation Office on 13 10 20 or at ato.gov.au.

More information

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