

Statement of Dependency Form for Non-Binding Nominations

Who should complete this form?

This form should be completed by potential beneficiaries of the death benefit or those representing the estate of the late member, such as:

- the deceased's spouse;
- potential beneficiaries (e.g. children or those living in an interdependent relationship) including legal representatives acting on the behalf of potential beneficiaries; or
- the executor or legal administrator of the estate (e.g. lawyers or trustees in bankruptcy).

Although everyone involved will attempt to process the claim as quickly as possible, there are strict guidelines about who is entitled to receive a death benefit. See the section '*Who can receive a death benefit?*' for further information. In some circumstances, this process can become complicated and may take some time to resolve.

Section 1 Deceased's (Member's) details

Deceased's Name	
Deceased's Date of Birth	
Deceased's Address	

Section 2 Your details

Your name	
Your date of birth	
Your address	
Your contact number	
Your relationship to the Deceased (e.g. spouse, son, legal representative, etc)	

Were you financially dependant on the Deceased? Yes No

Do you wish to stake a claim on the Deceased's benefit? Yes No

To be completed only if you are completing this form on behalf of a minor child

Minor's name	
Minor's address	
Minor's date of birth	

Was the above minor financially dependant on the Deceased? Yes No

Are you the legal guardian of the above minor? Yes No

Do you, on behalf of the minor, wish to stake a claim on the Deceased's benefit? Yes No

Section 5 The following are details of other financial dependants of the deceased e.g. dependent parents, previous spouse receiving maintenance, etc.

Name	Address / Contact Number	Age	Reason for and extent of Dependency

Section 6 Any other information you believe is relevant for the trustee to be aware of?

Section 7 Who do you believe the benefit should be paid to, please explain why?

Section 8 Required document checklist

These documents can be provided by any party but only need be provided by one party – usually the Executor or Spouse. If you are aware of these documents being provided by another party to the trustee, please disregard this section.

- 1 **Original Certified Copy** of deceased's Death Certificate (**mandatory**)
- 2 **Original Certified Copy** of proof of age of the deceased (this may be a copy of a Driver Licence, Passport or Birth Certificate) (**mandatory**)
- 3 **Original Certified Copy** of deceased's Marriage Certificate or Divorce Orders (if applicable)
- 4 **Original Certified Copy** of deceased's Will, any Grant of Probate or Letters of Administration (if applicable)
- 5 Any additional information relevant to the deceased's relationships with potential dependants such as:
 - the grounds for financial dependency
 - details of financial support provided by the deceased
 - other information such as any correspondence with solicitors, family, etc.

Please describe any additional information you have provided: Attach a 2nd sheet of paper if necessary.

Section 9 Statutory Declaration – Statutory Declaration Act 1959 (Cth)
Please complete and sign this in front of an eligible witness
(See next page for list of people eligible to witness Statutory Declarations)

I, _____
(print full name of person making the declaration)

of _____
(print your full address)

do solemnly and sincerely declare that, to the best of my knowledge, the contents of this Statement of Dependency Form are true and correct.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act 1959.

Declared at, _____
(print details of city where declaration is being signed)

In the state/territory of, _____
(print details of state or territory where declaration is being signed)

This, _____ day of _____ in the year 20____
(day) (month) (year)

Your signature: _____
(signature of person making the declaration)

Witness full name: _____
(print full name of witness)

Witness address: _____
(print full witness address)

Witness signature: _____
(signature of witness)

Witness occupation: _____
(occupation of witness)

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* – see section 5A of the *Statutory Declarations Act 1959*.

Statutory Declarations and Original Certified Copies

As part of this Statement of Dependency form, you will need to sign a Statutory Declaration and provide Original Certified Copies of specific documents. An Original Certified Copy is a copy of a document that has been *certified as a true and correct copy of the original* (all pages). Statutory Declarations and Certified Copies of documents may be witnessed by one of the following (note: persons qualified to witness Statutory Declarations and Certified Copies of documents may vary in each state and territory):

- a justice of the peace or a bail justice
- a public notary
- an Australian lawyer (within the meaning of the *Legal Profession Act 2004*)
- a clerk to an Australian lawyer
- the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or the deputy registrar of the County Court, the principal registrar of the Magistrates' Court or the registrar or the deputy registrar of the Magistrates' Court
- the registrar of probates and the assistant registrar of probates
- the associate to a judge of the Supreme Court or of the County Court
- the secretary of a master of the Supreme Court or of the County Court
- a person registered as a patent attorney under Chapter 20 of the *Patents Act 1990* of the Commonwealth
- a member of the police force
- a sheriff or deputy sheriff
- a member or a former member of either House of the Parliament of Victoria
- a member or a former member of either House of the Parliament of the Commonwealth
- a councilor of a municipality
- a senior officer of a council as defined in the *Local Government Act 1989*
- a registered medical practitioner within the meaning of the *Medical Practice Act 1994*
- a registered dentist within the meaning of the *Dental Practice Act 1999*
- a veterinary practitioner
- a pharmacist
- a principal in the (State) teaching service
- the manager of a bank
- a member of the Institute of Chartered Accountants in Australia or CPA or the National Institute of Accountants
- the secretary of a building society
- a minister of religion authorised to celebrate marriages (not a civil celebrant)
- a person employed under Part 3 of the *Public Administration Act 2004* with a classification that is prescribed as a classification for statutory declarations, or who holds office in a statutory authority with such a classification
- a fellow of the Institute of Legal Executives (Victoria).

Further Information

Claims for death benefits are made at a time when people are upset and usually anxious about their circumstances. The process of claiming a Death benefit can appear complex, particularly if you are unsure about superannuation entitlements. The following pages explain:

- Who is entitled to claim a Death benefit;
- The steps you must go through when making a claim;
- What the trustee of the superannuation fund needs to consider in reviewing a claim; and
- Some of the legal and superannuation terms you may come across.

Who can receive a death benefit?

The Trustee can only pay a death benefit as permitted by the Superannuation Industry (Supervision) Act 1993 ('the SIS Act'), the Commonwealth legislation that governs superannuation, and the Fund's Trust Deed (the legal document which sets out the rules governing the Fund) and the Income Tax Assessment Act 1997.

These generally restrict the range of potential beneficiaries to people who were a 'dependant' of the deceased member, and/or the deceased's legal personal representative.

Who are dependants?

Under the SIS Act, the term 'dependant' generally means one or more of the following people:

- the spouse of the member (including a de facto spouse);
- any child of the member – including any step child, any child recognised by the member as an adopted child and any child of the member born after the member's death;
- any person who the Trustee considers to have been wholly or partially financially dependent on the member at the time of the member's death;
- any person who the Trustee considers to have been in an 'interdependent relationship' with the member at the time of the member's death.

Financial dependency

Being financially dependent on the deceased does not necessarily mean that you depend on them totally for financial support. You may claim as a dependant, even if you were only partially financially dependent on the deceased.

Financial dependency may include a dependency on the deceased for payments of bills, rent, maintenance payments and shared financial commitments such as a mortgage.

Interdependent relationship

Two people will have an interdependent relationship if:

- 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.

OR

- they have a 'close personal relationship'; and
- they do not live together, nor provide each other with financial support, nor provide each other with domestic support and personal care because one or both of them suffer from a disability.

OR

- 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 support and care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate.

OR

- they have a 'close personal relationship'; and
- they do not live together, nor provide each other with domestic support and personal care because they are temporarily living apart.

A 'close personal relationship' is one that involves a demonstrated and ongoing commitment to the emotional support and well-being of two parties.

Two persons do not have an interdependent relationship if one of them provides domestic support and personal care to the other:

- under an employment contract or a contract for services; or
- on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

Who is a legal personal representative?

Generally, the legal personal representative is the person who is the executor of the Will or, if the deceased did not have a Will, the administrator of his/her estate. The administrator of the estate will be the person who has been granted Letters of Administration from the Supreme Court.

Nominated beneficiaries

The Trustee is legally responsible for deciding to whom the death benefit will be paid. Many members nominate the person(s) to whom they would like their benefit paid when they die.

For non-binding beneficiary nominations the Trustee will consider all preferred beneficiary nominations but does not have to follow them.

For binding nominations, the Trustee will determine whether the binding nomination is valid. The Trustee must pay a death benefit in accordance with a valid binding nomination.

What does the Trustee have to do?

Where a member dies the Trustee of their superannuation fund has a responsibility to pay their death benefit in the proportions it decides to the late member's dependants and/or to their estate, as permitted by legislation and the Trust Deed.

The Trustee will consider a number of things in making the decision. See *Identifying Dependants* for more information.

The Trustee must pay the benefit within strict legal guidelines, even if the decision is an unpopular one.

What happens when a death claim is made?

This section shows you the steps involved in making a death claim and the processes by which the Trustee decides who is eligible to receive a death benefit.

1. Providing Information

When notified of a death of a fund member, the Fund will send the applicant (also known as a claimant) a Statement of Dependency.

Applicants for a death benefit may include a dependant (that is, a spouse, a child, a financial dependant, or a person who was in an interdependent relationship with the deceased), or the deceased's legal personal representative.

The Statement of Dependency will request additional documents to be provided, including:

- certified copy of the Death Certificate;
- proof of age of the deceased member (this may be a certified copy of a Driver Licence, Passport or Birth Certificate);
- certified copy of deceased's Marriage Certificate or Divorce Orders (if this exists);
- certified copy of the deceased member's Will (if this exists);
- a Statutory Declaration, which each potential beneficiary will be asked to complete, to show how, and to what extent, they were dependent on the deceased member at the time of their death.

The Trustee may seek relevant information including confirmation of whether they wish to claim an interest in the benefit from all dependants.

If the deceased had no dependents, the Fund may ask for Probate of the Will or Letters of Administration to be provided. You may want to ask your solicitor or the Public Trustee to advise you about this. Probate is obtained to enable the deceased's executors to deal with the deceased estate under the terms of their Will.

Where there is no Will and no binding nomination, then Letters of Administration are obtained to enable the deceased's legal personal representative to deal with the deceased's estate.

If Probate or Letters of Administration are required, the Fund Trustee generally will not pay the benefit until it receives this documentation. If this applies to your claim you should ask your solicitor to make the application as soon as possible.

2. Identifying dependants

When all documents are returned to the Fund, the Trustee will consider to whom the death benefit should be paid. If the member had insurance cover it will lodge the claim with the superannuation fund's Insurer.

The Trustee of the superannuation fund has to:

- identify people who might have been dependants of the deceased (as defined above); and
- consider their relationship with the deceased and the extent to which they may have been financially dependent or interdependent at the time of the member's death.

The Trustee will do this by:

- considering the information provided by any dependants or the deceased member's legal personal representative;
- checking the member's Will, if they had one; and
- considering the position of any beneficiary nominated by the member.

The Trustee must also take into account the circumstances of each applicant at the date of the member's death to ensure that the appropriate person receives the benefit.

3. Advising applicants

When the Trustee has decided who will be the recipient(s) of the death benefit, the Fund will write to all the applicants advising them who the Trustee proposes the benefit will be paid to and the way in which the benefit will be divided (if it is being paid to more than one person).

Once applicants receive this advice they have 28 days to respond and confirm with the Trustee either that they are satisfied with the decision or that they want the Trustee to review it. The Trustee must review the decision if requested and may ask claimants to provide further information to help with the review. Generally no portion of the benefit will be paid until the Trustee is satisfied that all issues have been resolved.

4. If you disagree with the decision

If you disagree with the outcome of the death claim, you may provide your reason of objection in writing to the Fund.

Your objection will be investigated and, if you are not satisfied with the Fund's response, you may ask the Superannuation Complaints Tribunal (SCT) whether you are eligible to submit a complaint.

5. Paying the death benefit

Once the Trustee has confirmed the eligibility of the payment, subject to certified identification requirements being met, the recipient(s) will receive the death benefit payable. This benefit will consist of any applicable insured benefit and any applicable account balances.

Recipients will receive documentation with the payment, which will explain the calculation of benefit and will show any tax that has been deducted or any special conditions that may apply.

Please note that where a Tax File Number (TFN) is not supplied the benefit payable may be taxed at a higher rate.

Queries

If you have any queries about death benefits you should call the Fund administrator on 1800 816 575.

Completed Forms

Please return this completed form to the following address:

Enterprise Plan, PO Box 1282, ALBURY NSW 2640

The information in this document has been prepared by OneVue Super Services Pty Ltd ABN (74 006 877 872), AFSL 246883 as the Fund Administrator. It is intended to provide you with general information only and does not take into account your personal objectives, financial situation and needs. Before making any decisions regarding your benefits in **Enterprise Plan sub Fund of the Executive Super Fund** ABN 60 998 717 367 (the Fund) it is important that you consider the current Product Disclosure Statement (PDS) relevant to your category of membership having regard to your own situation and needs. Copies of the various PDS' are available on the Enterprise Plan's website enterpriseplan.com.au. You should consult a licensed or authorised financial adviser if you require advice that takes into account your personal circumstances.