

Senator the Hon. Nick Sherry
Minister for Superannuation and Corporate Law
Parliament House
CANBERRA ACT 2600

cc Review of the Retirement Income System

Dear Senator

I would like to make a submission to the Review of the Retirement Income System about the demands on trustees and members of self-managed superannuation funds (SMSFs). The consultation question in the review of interest to me is:

Q5.1. In what ways does the retirement income system impose undue complexity and cost on retirees and workers? How could this be reduced?

I am a member of a SMSF and a trustee for it. A close relative is another member and trustee. I am also a trustee for a second SMSF, of which a second close relative is the sole member. He is also a trustee. For each fund, especially the latter, I have greater experience with financial and related matters than the other trustee. Much of the day-to-day administration of these SMSFs - as well as liaison with the various professionals we employ in a number of firms to advise us on administrative, financial, accounting and investment matters - therefore falls to me. These matters are often complicated and time-consuming. Some arise at short notice, yet require prompt action.

I wish to make the following points about my experience as a member and trustee of SMSFs:

1. As a SMSF trustee I have the responsibility to sign off on important documents, such as annual statements of accounts or tax returns. Any other trustee for a particular SMSF and I are expected to take sole responsibility for the accuracy and validity of these documents.
2. I employ a range of professionals from reputable firms to prepare documents for my SMSF, to have them ensure that the documents comply with all legal requirements and that they get the figures right. As a trustee in these circumstances, I should not be legally required to guarantee the accuracy of every remark and figure in them. Nevertheless superannuation administrators always present the other trustee and me with strongly worded statements about trustees' being totally responsible for the content of such documents, when they ask us to sign them.
3. I have every right to know what's happening to my own assets, whether owned in my name or through my SMSF. I am interested in the workings of financial accounts and take an active interest in the preparation of material relating to my own affairs, whether in my own name or a SMSF. However, it appears that some superannuation professionals expect their clients to do exactly what they are told in relation to their SMSF, to ask no questions, sign what's put in front of them and not to get involved in any way.
4. As a trustee required to vouch for the correctness of documents when I sign them, I believe it proper to check as much of them as I can, although I have no special expertise in superannuation. Sometimes, in conducting such a check, I have found errors in the material presented for me to sign. For example, one was the annual rate of earnings of the fund. This had been calculated by comparing the amount earned over the financial year with the amount in the fund at the *end* of the financial year. It should have been compared with the amount in the fund at the *beginning* of the year. Another time withholding tax had not been noted in the return as already having been paid. When I pointed them out, the superannuation administrators involved admitted these errors and corrected them.
5. Please note that the above errors were of a simple kind. I therefore wonder what more complicated ones have been made which I have no capacity whatsoever to discover and for which I am nevertheless required to take full responsibility, when I sign off on important documents. Could it be that the whole area of self-managed superannuation has become too complicated for at least some professionals working in the industry, as well as for trustees?

6. I understand that it has been suggested that potential trustees of SMSFs should be required to undergo training before being authorised to become trustees. I hope that the purpose of such training would be to clarify the roles and responsibilities of trustees. I hope too that it would also distinguish between their roles and responsibilities and those of any superannuation professionals they employ. Information for trustees very definitely needs to be in "plain English". By definition, members and trustees of SMSFs are most likely to be older people. Many members of SMSFs would also be trustees for their own SMSFs. If potential trustees were to attend the necessary introductory training course, would they be required to attend further ones - at even older ages - if there were to be significant changes to the roles of trustees, before they would be allowed to remain trustees of the SMSFs of which they are the members? Don't even think about SMSF trustees' having to sit and pass exams, please!

7. While I am currently young, as far as retired people go, I too will become older. Later, while - I hope - I am still a fully functioning older person and not requiring family members to exercise an enduring power of attorney over my affairs, I may nevertheless not have the capacity to understand or cope with continuing changes to superannuation legislation or administration which need me to make decisions. At that point will I be required to employ trustees, in addition to all the other professionals above, to undertake yet another level of superannuation administration for me? Such trustees would come at a cost to the members of my SMSF and so reduce the amount of funds in superannuation available to support us.

8. Some issues needing action by members and trustees of a SMSF can be anticipated. An important one is the annual transfer of assets from a member's own name to the SMSF in the earlier years of a SMSF's existence. Each year, while the transfers are being made, they require the advice of a financial planner, investment advisor and taxation advisor. All their inputs need to be coordinated and checked. This can be a major exercise and different each year, due to legislative changes.

9. My experience is that other issues requiring major decisions to be made, often very quickly, are raised from time to time by superannuation administrators, with very little or no advance notice being given to clients. This can cause confusion and distress for older people, especially as such issues may coincide with health and other problems of ageing. In one case I found the first option for a proposed new superannuation-related service to be to pay a fee and have the service implemented. Being able to find out more about the potential service, before making any decision about its benefits, was a later option put to clients.

10. Action about changes to superannuation administration may coincide with the need to make investment decisions and often in haste. One superannuation administrator/investment advisor brings various investment offers to all his clients' notice, whether or not we receive investment advice through him. Some of these investment decisions have to be made over a weekend and a certain secrecy surrounds the whole offer.

11. For more usual investment offers, at least some companies make them to shareholders with still uncomfortably short time-frames before they close. Companies sometimes make offers at unhelpful times, such as just before Christmas.

12. Difficulties about investment decisions are further compounded if superannuation administrators, who also act as mail boxes for their SMSF clients, are slow to forward their mail to them, or if share registries do not dispatch papers about offers to all shareholders. I have often experienced problems of slow receipt of mail, even when the relevant superannuation administrator claims to have realised that mail needs to be forwarded the same day as it reaches his office. This administrator nevertheless says he keeps records of the mail forwarded to clients. In one case, I never received the correspondence about an offer to which my SMSF was entitled. Checks showed that the company's share registry, who acknowledged that I was entitled to the offer, had no record of which shareholders they had sent the entitlement papers. As I write here and now, I am waiting to receive replacement papers by email from another share registry about a separate offer, for which posted papers have not yet reached me for shares still held in my own name, although they have arrived for shares in my SMSF, via my superannuation administrator.

13. For both superannuation administration and investment advice, it has been my experience that, any time I am absent from home even for very short periods such as a four-day weekend, having informed the relevant professionals in advance about my absence, I may still be required to act immediately I return, or miss out on offers. For longer absences I have to put other arrangements in place.

14. One curiosity I will also mention is the frequency with which SMSF administrators require me, as a trustee, to sign minutes of meetings of trustees which have never actually taken place. Such minutes invariably include important decisions. When I have queried this with my superannuation administrator, I have been told that it is not a problem. Requiring trustees to sign off on the minutes of imaginary meetings is apparently widespread practice in the superannuation industry. Is it legitimate?

15. Please make government requirements clear, reasonable and simple for trustees and ensure that firms which act as superannuation administrators do the same for their requirements. Those of us who are trustees of SMSFs would, I imagine, all expect to have to put some time and effort into our role. However, even for large or complicated SMSFs, being a trustee should not become a retired person's main activity. We ordinary trustees have not retired to spend our time managing our SMSFs.

16. The current period of economic downturn is very worrying to members of SMSFs, as are possible changes to the system of imputation credits. As well as reducing the already lowered income of members of SMSFs, these may lead to yet more administrative changes needing the attention of SMSF trustees. All this causes distress for older people.

17. I will also raise a separate but related issue for those receiving superannuation pensions. This is the courtesy with which administrators, including those of industry and government pension schemes, deal with older people who have just lost a spouse whose pension needs to be stopped. You would be aware of the current public outcry about the treatment of the pay of certain members of Australia's elite armed forces serving overseas. Likewise older people deserve to be treated with courtesy. Would you please ensure that there are guidelines about this for all superannuation administrators. They too may need training!

I can provide a signed copy of this letter, if you wish.

Yours sincerely

(Mrs) Jennifer J