Queensland Nurses & Midwives' Union

# Submission to

## The Productivity Commission

## Superannuation: Assessing Efficiency and Competitiveness Draft Report

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submission

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**Bill Kelty 2018**

**Introduction**

The Queensland Nurses and Midwives' Union (QNMU) thanks the Productivity Commission (the Commission) for the opportunity to make a submission to the *Superannuation: Assessing Efficiency and Competitiveness Draft Report* (the draft report).

Nursing and midwifery is the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 59,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses and midwives in Queensland are members of the QNMU.

The QNMU recognises the Commission's significant efforts in compiling such a comprehensive document. In the draft report, the Commission has made a number of requests for empirical information around fund performance, governance and regulation that organisations operating in this space are well placed to provide. Our submission reflects on the recommendations and outlines those areas where we continue to put forward an alternate view.

The QNMU The QNMU is a strong supporter of *Make Super Fair*, a campaign that seeks a range of focused policy measures designed to improve retirement outcomes for women and low-income earners. (Women in Super, 2018). Our recommendations include these initiatives.

The QNMU asks the Commission to read our submission in conjunction with that of the Australian Council of Trade Unions (ACTU), Women in Super and the Australian Institute of Superannuation Trustees (AIST), a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

**Recommendations**

For low paid and women workers specifically, the QNMU recommends the federal government:

- establish a 'women in superannuation' working group comprised of representatives from Women in Super, women's groups, employers and unions to identify ways to improve the superannuation outcomes for women;
- introduce an 'accumulation pathway' that maps a superannuation balance at any given age a person should hold in order to expect a basic living standard in retirement based on a combination of superannuation and the age pension (Hetherington & Smith, 2017);
- introduce a superannuation contribution in addition to the carer payment for all carers (male and female) who fall below the 'accumulation pathway';
- make a co-contribution top-up of 2.5% of income, paid annually, for account holders more than 5% below the 'accumulation pathway' phased out on a sliding scale as balances approach the 'accumulation pathway';
- remove the 15% contribution tax for all men and women more than 10% below the accumulation pathway;
- make a superannuation contribution at the prevailing Superannuation Guarantee (SG) rate for the government's paid parental leave scheme;
- retain the Low Income Superannuation Tax Offset with an increase of the maximum tax repayment to $1000;
- eliminate the minimum threshold for the compulsory employer contribution of $450 per month in earnings;
- introduce structures and incentives that encourage superannuation contribution sharing when only one parent is working and specifically make it easier and more acceptable for men to take time out from work to care for children;
- reduce the effective marginal tax rates faced by second earners returning to work after having children (Hetherington & Smith, 2017);
- include a superannuation component in Family Tax Benefit B (FTB) B (Hetherington & Smith, 2017);
- re-establish the Office of the Status of Women as a part of the integration of gender impact assessment across government policies and programs, including, but not limited to, government budget analysis (Hetherington & Smith, 2017);
- measure and publish the impact that any future changes to super would have on women.

In response to the recommendations in the draft report the QNMU recommends the federal government:

- enable the Australian Securities and Investment Commission (ASIC) to undertake more scrutiny and assessment of underperforming for-profit funds with a view to banning those with high fees and consistently low returns;
- introduce stronger corporate governance of for-profit funds;
- maintain the role of the Fair Work Commission (FWC) for default super arrangements rather than a panel to pick the 'ten best in show';
- retain superannuation provisions within industrial instruments;
- extend employer paid superannuation to all workers including contractors and those working in the 'gig' economy;
- Increase the superannuation guarantee to 12 %;
- provide adequate resourcing for the Australian Tax Office (ATO) to carry out the initiatives making superannuation payments more transparent and employers accountable.

**Women in Super**

As a predominantly female union we are disappointed to find the Commission has made no specific reference to women workers, nor made any particular recommendation to address the gender gap retirement savings that sees women retire with about half the super of men.

This is a significant failing of the superannuation system. There was plenty of scope to explore this within the terms of reference, given the brief was to

> *assess the efficiency and competitiveness of Australia's superannuation system and make recommendations to improve outcomes for members and system stability. The Commission is to also identify, and make recommendations to reduce, barriers to the efficiency and competitiveness of the superannuation system (draft report page i.v.).*

The Commission would be well aware the superannuation system is simply not assisting women towards a reasonable standard of living in retirement. Women comprise half the population yet their superannuation balances at retirement are 47% lower than men's. As a result, women are far more likely to experience poverty in retirement and in their old age.

The reasons for this stem from a confluence of circumstances:

- an inadequate age pension;
- overrepresentation in lower paid occupations;
- the gender pay gap;
- no super payments made at low pay levels;
- ineffective marginal tax rates;
- carer responsibilities;
- unpaid domestic work;
- the complexity of the super system and frequency of changes to it;
- age discrimination;
- unaffordable housing;
- living longer;
- poor financial literacy;
- cost/availability of childcare;
- relationship breakdowns; and
- casualised work. (Hetherington & Smith, 2017).

Superannuation was designed around a model of employment that is rapidly disappearing. In this model, one breadwinner, usually a man, provided the household through a full time secure job. Implicitly, the benefits of superannuation would largely flow to women through their male partners.

Over time, many more women have entered the workforce to earn and save independently, but the nature of work available to them has been more intermittent and lower paid than that of their male counterparts. This, combined with the fact that women still do the overwhelming majority of unpaid housework, caring and parenting, means the benefits of super, which move in direct proportion to pay, have not flowed to females (Hetherington & Smith, 2017).

Recent measures such as the 2018/9 budget expanded the Pension Work Bonus to allow pensioners to earn an extra $1300 a year without reducing their pension payment and extended the Pensions Loan Scheme to all Australians over the pension age, including self-funded retirees. While these budget measures are welcome, they do not address the problem of most Australian women retiring with inadequate super balances and being almost entirely reliant on an age pension that is very low by international standards.

The QNMU supports the concept of an accumulation pathway, a scheme that maps the superannuation balance a person should hold at any given age in order to expect a basic living standard in retirement based on a combination of superannuation and the age pension. Through this initiative, governments can take appropriate measures to ensure workers do not fall below the pathway. On present indicators, women are most likely to benefit from such a scheme.

The draft report (Productivity Commission, 2019, p. 65) recommends the Australian government should establish a superannuation data working group comprised of Australian Prudential Regulation Authority (APRA) ASIC, the ATO, the Australian Bureau of Statistics (ABS) and the Commonwealth Treasury to identify ways to improve data collection. We suggest the Australian government should also establish a 'women in superannuation' working group comprised of representatives from Women in Super, women's groups, government, employers and unions to identify ways to improve the superannuation outcomes for women.

**Recommendations**

The QNMU recommends the federal government:

- establish a 'women in superannuation' working group comprised of representatives from Women in Super, women's groups, employers and unions to identify ways to improve the superannuation outcomes for women;
- introduce an 'accumulation pathway' that maps a superannuation balance at any given age a person should hold in order to expect a basic living standard in retirement based on a combination of superannuation and the age pension (Hetherington & Smith, 2017);
- introduce a superannuation contribution in addition to the carer payment for all carers (male and female) who fall below the 'accumulation pathway';
- make a co-contribution top-up of 2.5% of income, paid annually, for account holders more than 5% below the 'accumulation pathway' phased out on a sliding scale as balances approach the 'accumulation pathway';
- remove the 15% contribution tax for all men and women more than 10% below the accumulation pathway;
- make a superannuation contribution at the prevailing Superannuation Guarantee (SG) rate for the government's paid parental leave scheme;
- retain the Low Income Superannuation Tax Offset with an increase of the maximum tax repayment to $1000;
- eliminate the minimum threshold for the compulsory employer contribution of $450 per month in earnings;
- introduce structures and incentives that encourage superannuation contribution sharing when only one parent is working and specifically make it easier and more acceptable for men to take time out from work to care for children;
- reduce the effective marginal tax rates faced by second earners returning to work after having children (Hetherington & Smith, 2017);

- include a superannuation component in Family Tax Benefit B (FTB) B (Hetherington & Smith, 2017);
- re-establish the Office of the Status of Women as a part of the integration of gender impact assessment across government policies and programs, including, but not limited to, government budget analysis (Hetherington & Smith, 2017);
- measure and publish the impact that any future changes to super would have on women.

**Superannuation and the industrial relations system**

Two decades ago, unions in partnership with the Labor Government established universal superannuation for Australian workers. At that time, the Government restructured the tax concessions for superannuation to make them more consistent with retirement income objectives. In addition, access to superannuation concessions were made substantially more equitable. These reforms moved superannuation from being a concessionally taxed source of windfall gains for high income earners towards being a genuine retirement savings vehicle for most Australians (House of Representatives, 1992, p. 1763).

The (then) Labor Government supported the inclusion in existing superannuation award provisions of the rates of contribution to superannuation funds required by the superannuation guarantee scheme as they become operative (House of Representatives, 1992, p. 1765).

Universal superannuation is a long standing industrial right to deferred wages and thus a matter relating to the employment relationship. As union membership has declined since its inception, like other industrial matters it is even more important superannuation provisions remain within awards and other industrial instruments to ensure workers and their representatives are able to negotiate improvements within an enterprise bargaining context and to protect those who remain award reliant.

Not one of the recommendations in the draft report demonstrates how removing the protections of industrial relations regulation will benefit workers. The link between employers, unions, workers and their funds has been a key reason why industry and other all-profit to member super funds have systemically out-performed bank-owned super funds, and are the pillar of the success of Australia's retirement system. The cause of these materially different financial outcomes for members in the all-profit-to-members and retail sectors is a simple one. It lies in the differing motivations of the trustees. All profit to member funds focus on member needs while retail funds focus on the needs of the shareholders of the corporations providing retail fund services (Sy, 2018).

It is surprising and disappointing the report did not focus more on this fact. The underpinning ethos of the all-profit-to-members superannuation system in Australia is one of employers and unions focusing on a shared critical interest of delivering the best possible retirement outcomes for employees and members. This is a deep, enduring, collaborative and singularly-focused effort that has delivered superior outcomes for so many. As such it is surely worthy of celebration. It is an approach that should be replicated more widely and yet some are blinded by entrenched ideological positions that fail to recognise the evidence and power of this member-centred approach. The representative trustee system is an internationally recognised policy success story.

Not-for-profit funds including industry, government and corporate funds, must remain the foundation of modern awards. We believe the existing arrangements operate in the best interests of the large number of employees to whom the superannuation provisions in a modern award apply, although the 'one size fits all' approach does not sit easily in some industries with many areas to cover. Most of the funds are not-for-profit so they charge lower fees and deliver higher net returns to members.

The Commission has highlighted the relative performance of industry funds and found that default funds provide stability and their investment returns exceed those of non-default funds. This is particularly important for employees to whom the superannuation provisions in modern awards apply. The default fund nominated in an award should be geared towards achieving the best possible risk-adjusted returns for members, not to serve the interests of those operating within the banking and investment sector.

While the draft report acknowledges the superior performance of most default not-for-profit funds it then perversely recommends dismantling the very system that has delivered these results. The Commission made it clear retail choice funds underperformed and were more expensive, yet failed to address the glaring inefficiencies of this sector where more retirement savings are invested.

We support sensible reform that extends employer-paid superannuation to all workers, including contractors and those in the gig economy, and the urgent increase of the super guarantee to 12 percent.

**The Role of the FWC**

The Commission believes the FWC is not suited to select default funds because it does not have sufficient expertise and its decisions are based too much on history and precedent, and the representations of industrial parties.

The QNMU does not support an independent body to create the ten 'best in show' super funds. We see no justification for creating an entirely new default selection body when the existing FWC process already has the appropriate judicial and legislative framework in place. The FWC could enhance this framework by encompassing a merit-based filter to remove the default status of any long-term underperforming funds. Establishing appropriate selection criteria for short listed funds will be critical and the criteria must weigh long term net returns and fees. The FWC would be able to gain the necessary expertise to make consistent assessment of funds.

Removal of the FWC from the process is also another step in distancing default superannuation from awards and the industrial parties. In our view, a shift away from the FWC to an 'independent' panel may introduce appointees with more background in finance but who could also be perceived to have potential biases or conflicts of interest. The Commission proposes this may be mitigated by making the 'independent' panel accountable to the government through adequate reporting and oversight, however the FWC already operates as an independent body with strong judicial accountability. These are the characteristics that enable the FWC to act in the best interests of workers and employers, not the finance industry.

**Default superannuation funds**

The draft report acknowledges the default segment has on average outperformed the system as a whole although it fails to ensure members are placed in the very best products and places a sizable minority in underperforming products (Productivity Commission, 2018, p.57).

The Commission has previously noted that many consumers do not have the interest, information or expertise required to make informed choices about their superannuation (Productivity Commission, 2012). These consumers rely heavily on the default superannuation system to act on their behalf. Clearly a significant proportion of workers find limited relevance in competition and choice of funds.

This is especially the case in the wake of the Global Financial Crisis (GFC) where the retirement savings of workers took such a significant setback because of the failings of an inadequately restrained and poorly regulated market. Safety, governance, proper alignment of interests and adequate risk management are more important to our members than contestability.

The QNMU has made its position on default superannuation funds very clear to the Commission in previous submissions. Employers and workers fund superannuation schemes. This is an industrial issue involving deferred-wages. Therefore market forces and business interests should not drive the selection of default options, rather the selection of default funds must be subject either to award determination or enterprise bargaining to protect and advance the interests of those for whom the scheme operates.

The Commission's focus on industry funds fails to address the most problematic providers within the system – the retail and self-managed super funds. If the main problem the Commission is trying to address is an individual worker's accumulation of multiple superannuation accounts, then removing employers and unions from their roles as custodians of the scheme is not a suitable solution.

The QNMU is not convinced the untested concept of a 'one default fund for life,' is viable given new payroll systems and recent Budget measures will address the problem of account proliferation. While this concept may on the surface appear to provide a solution to multiple accounts, the QNMU holds significant concerns this may result in unintended consequences and we therefore favour further closer examination of other potential solutions. The 2018/9 Budget announced new powers for the ATO to proactively reunite lost and low balance inactive super accounts. This is a welcome move to address Australia's $16 billion lost superannuation problem, however the ATO must be resourced adequately to implement this initiative.

**A centralised online service**

The implementation of new technologies has already been improving efficiencies within the default superannuation process. The draft report recognises the role of SuperStream and Single Touch Payroll as suitable mechanisms for streamlining and simplifying the interaction with super funds, and recommends these systems support a centralised online service to help people keep their main fund and consolidate others. As the draft report acknowledges, greater access to information will allow better decision-making and engagement. We concur with these observations as they can enable consumers to consolidate accounts and increase their engagement with the superannuation fund.

The QNMU supports the proposed policy changes that will promote SG payment compliance including:

- Extending Single Touch payroll to small employers (with less than 20 employees) from 1 July, 2019;
- Requiring funds to report contributions to the ATO at least monthly;
- Assigning stronger powers to the ATO to penalise non-compliant employers and recover unpaid contributions (Productivity Commission, 2018, p. 50).

These mechanisms have occurred through close collaboration between the superannuation industry, employers, payroll providers, gateways, administrators and the ATO. Further development of these initiatives will obviate the need for sweeping change to the default fund selection process.

**Recommendations**

In response to the recommendations in the draft report the QNMU recommends the federal government:

- enable ASIC to undertake more scrutiny and assessment of underperforming for-profit funds with a view to banning those with high fees and consistently low returns;
- introduce stronger corporate governance of for-profit funds;
- maintain the role of the FWC for default super arrangements rather than a panel to pick the 'ten best in show';
- retain superannuation provisions within industrial instruments;
- extend employer paid superannuation to all workers including contractors and those working in the 'gig' economy;
- Increase the superannuation guarantee to 12 % immediately;
- Provide adequate resourcing for the ATO to carry out the initiatives making superannuation payments more transparent and employers accountable.

**Conclusion**

While we welcome some of the initiatives the draft report proposes, the QNMU will continue to advocate for a fairer, more innovative superannuation system that supports women's retirement incomes. The protections of the industrial relations system and tribunals must remain the cornerstone of this important employment right.

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