Discussion Paper: *Claims Handling*

April 2017

The Insurance in Superannuation Working Group

CONTENTS

ISWG FOREWORD

Group insurance in superannuation and particularly its automatic issuance on an opt-out basis has been a successful policy for Australia which has resulted in better risk protection for Australians from all walks of life. It provides a safety net to millions of Australians who would have otherwise not chosen or been unable to take out life and disability insurance individually. These benefits contribute significantly to addressing Australia's underinsurance gap and relieving fiscal pressures on our social security system.

The Insurance in Superannuation Working Group (ISWG) was formed in November 2016 to collaboratively enhance future iterations of policy development. While the current policy settings are fundamentally right, there is industry acknowledgment that changes need to be made to improve the experiences of superannuation fund members.

Members need to be placed in the middle of a complex stakeholder hierarchy with clarity that superannuation funds are advocating on their behalf. Superannuation funds and insurers must work together in order to achieve the most sustainable benefits for members. Accordingly, the ISWG contains superannuation fund, insurer, industry and consumer representatives.

The ISWG believes that: ***The objective of insurance in superannuation is to provide a measure of financial support to members and their families if the member is prevented from working to retirement age by death or ill-health***.

This objective has to be balanced with the broader purpose of superannuation being the provision of retirement benefits for those that do have a full working life, recognising that insurance premiums will erode those sums to some extent. The challenge for superannuation funds is managing these competing objectives and making sure that the balance between meeting needs and affordability is appropriately established and managed into the future.

A key deliverable for the ISWG is a Code of Practice that will apply to superannuation funds. This code will extend on the current Financial Services Council (FSC) Life Insurance Code of Practice by setting standards that ensure a common end to end experience for all classes of life insurance consumers.

This discussion paper is the second of several that will focus on key issues that need to be addressed by the industry. Feedback received from these discussion papers and other stakeholder consultations will inform the development of the Code of Practice and good practice guidance for superannuation funds.

The scope of this second paper, Claims Handling, was selected because the ISWG believes it is one of the most important areas where positive changes can be made to provide people who need to claim on their life insurance through superannuation with a more 'customer centric' experience. Later discussion papers will address matters relating to: improving member communication and engagement, insurance terms and conditions, and insurance data.

Unless stated otherwise, the statements in this paper reflect the views of the ISWG as a collective.

EXECUTIVE SUMMARY

ASIC and APRA have each undertaken reviews in relation to life insurance claims handling and while these reviews did not find evidence of cross-industry misconduct, they did highlight potential areas for improvement and made recommendations for superannuation funds and insurers to consider[1]. There is industry agreement that the member experience during the claims process has to be improved[2].

The FSC Life Insurance Code of Practice was developed by the life insurance industry, and it is proposed that the superannuation industry build on this to set minimum standards for superannuation funds in certain aspects of claims handling and to provide good practice guidance in relation to other areas where it would not be appropriate to mandate requirements.

It is proposed that the superannuation industry devise a Code of Practice (the Code) for insurance in superannuation[3] which will address the following areas:

- Principles to be applied in the handling of claims
- Time frames within which certain activities that the fund is responsible for in the claims journey should be undertaken
- Minimum standards in relation to communicating with people claiming
- Good practice guidance in relation to governance structures and approaches to claims handling

This paper provides an outline of the claims handling elements of the proposed Code and some of the considerations that need to be taken into account during the drafting of the Code, including the impending release of the Parliamentary Joint Committee – Life Insurance Inquiry report. It also poses a number of questions, the responses to which will guide the drafting of the Code.

We encourage and welcome all stakeholders to respond to these proposals with their thoughts and feedback. The ISWG wish to ensure that all voices are heard and considered, in working towards the goal of providing industry leadership and mandating a high standard of delivery that gives consumers confidence in the system.

We want your feedback

We invite you to comment on the key questions that have been raised. All submissions on this discussion paper are due by **5 May 2017** and should be sent to the Project Management Office at:

ISWG-PMO@kpmg.com.au

All submissions will be treated as public documents unless you specifically request that we treat the whole or part of your submission as confidential.

[1] ASIC Report 498- Life Insurance Claims, and http://www.apra.gov.au/MediaReleases/Pages/16_38.aspx

[2] ISWG Joint Media Release available at: https://www.superannuation.asn.au/media/media-releases/2016/media-release-20-december-2016

[3] It is intended that the Code will apply to all relevant insurance cover held within superannuation, including Death, Total and Permanent Disablement, and income-related (Income Protection or Salary Continuance Insurance) cover where available.

SECTION A: DISCUSSION

A.1 The member experience at claim time

Greater scrutiny has been placed on the broader life insurance industry by the media and regulators and has reinforced the need for superannuation funds to also enhance their processes. Funds need to ensure that they are adequately protecting their members' interests, and providing the necessary support and communication to a member or beneficiary (referred to as a 'person claiming' in this paper) who is seeking to claim on life insurance cover that is held through superannuation.

For the purposes of this paper, it should be noted that any references to 'life insurance cover' or 'life insurance' held through superannuation are intended to apply to any Death, Total and Permanent Disablement (TPD), as well as any Income Protection or Salary Continuance Insurance (income-related cover) provided by superannuation funds to their members.

A.2 The claims journey can be complex and confusing

When a person submits a claim, they are often already dealing with challenging life circumstances and can be vulnerable. If the claims assessment journey is cumbersome and opaque, this can add significant stress to a person who may already be facing bereavement or debilitating illness.

The claims journey often involves multiple parties (the superannuation fund, insurer, administrator and employer) and it can be difficult for a person claiming to understand the role that each party plays in the journey as well as the interactions between those parties. Each person claiming should be provided with adequate information to manage their expectations in relation to the claims journey, and to assist them in understanding the various actions that may be required depending on the facts and circumstances of their claim.

Role of the superannuation fund

The role of the superannuation fund should be clearly explained to the person claiming at the outset, and in order to avoid confusion, when a further review step takes place following the insurer's decision on a claim. The fund must also assess whether a member has met relevant legislative requirements in order to have their monies released from the superannuation environment, as these may be different to the terms and conditions to claim on the life insurance cover.

People claiming should be made aware that the superannuation fund acts as the member's advocate in assessing the decision of the insurer and pursuing the insurer when they are of the view that the claim has a reasonable prospect of success.

The superannuation fund must therefore:

- Ensure that claims under the life insurance policy are administered efficiently and fairly
- Maintain governance policies and processes to oversee the life insurance made available to members, and the claims decisions made by the insurer

The role and duties of superannuation funds do not mean that they must pursue every claim on behalf of the person claiming. If the claim does not have a reasonable prospect of success (for example,

because the person claiming has not met the necessary terms and conditions of the insurance policy) then the fund is not required to pursue this. The fund must weigh up the interests of the broader fund membership when deciding whether to pursue a claim, and it would not be in the interests of fund members more broadly to pursue claims that do not have a reasonable prospect of success. This could lead to higher insurance premiums and administrative costs across the fund membership, and false optimism for some people lodging a claim.

A.3 Claims can take a long time to assess

The claims journey can be lengthy, particularly for permanent disability claims. While it is important to allow appropriate time for proper consideration of a claim, unnecessary delays should be addressed, and the person claiming should be provided with information to assist them in understanding the steps involved.

Some steps in the claims assessment process may involve delays that are outside the control of the superannuation fund (for example, delays in obtaining medical reports from medical attendants). However the person claiming should be kept informed of the current status of their claim.

The FSC has issued its Life Insurance Code of Practice applicable to life insurers, which will assist in managing time frames and communication in relation to the steps in the claims assessment process that reside with the insurer. At present, there are no equivalent industry standards governing the actions of superannuation funds in the claims journey – in particular, the time taken by a fund to review a decision made by the insurer and to communicate their decision to the person claiming.

A.4 Involving law firms in a claim

If people claiming anticipate that there may be complexity and delays in the claims journey, they may opt to engage a legal adviser to assist in the notification and lodgment of a claim. If the claims processes operated by the superannuation fund and insurer are considered by them to be cumbersome, or if they do not have confidence that they will be treated fairly by the fund or the insurer, this may drive them to engage the services of a law firm.

It is also noted that the processing delays being experienced by the Superannuation Complaints Tribunal (SCT) may be driving people claiming towards litigation as a faster alternative to progress a claim than the SCT. The recent interim report of the review into the financial system external dispute resolution and complaints framework (the Ramsay Review) highlighted that in 2015-16, the average time to resolve a complaint from lodgment to determination through the SCT was 796 days (more than 2 years). This was an increase of 25 per cent from 2010-11[4].

Involving a law firm in the claim can result in the person claiming incurring significant legal fees. While there is undoubtedly a role for legal advisers in relation to contentious life insurance claims through superannuation, the engagement of a lawyer early in the claim (i.e. before the insurer has made a decision on the claim, and before the superannuation fund has reviewed the insurer's decision) risks the unnecessary depletion of claim benefits that may well have been paid without the involvement of a lawyer.

[4] Treasury Interim Report – Review of the financial system external dispute resolution and complaints framework (2016).

SECTION B: PROPOSALS

B.1 Claims handling principles

It is proposed that the work undertaken through this initiative would be used to inform the development of a Superannuation Insurance Code of Practice (the Code), and in particular, the sections of the Code relating to the handling of claims. This section of the Code would leverage the significant developments that have already been put in place by the FSC Life Insurance Code of Practice, and would build on this to articulate standard time frames within which superannuation funds will take the actions that are required of them through the claims journey.

It is intended that this section of the Code would cover all life insurance that is held through superannuation, regardless of whether the life insurance was obtained under automatic acceptance terms or was applied for by the member. The principles and time frames will apply to all cover types, and could be articulated in a way that allowed the principles to also be applied to benefit payments where the member does not hold life insurance cover through their account (i.e. distribution of a member death benefit, early release of account balance due to terminal illness or permanent incapacity).

The Code would articulate principles that should guide superannuation funds in their claims handling activities. The principles would be aimed at encouraging cooperation between all parties involved in the assessment of a claim, and minimising any inefficiencies or adversarial practices, so as to set suitably high standards for the experience of a person claiming through the claims journey.

Proposed principles that could be covered by the Code include:

- Appropriate governance arrangements be put in place by each superannuation fund in relation to claims handling
- Each superannuation fund should be aware of and monitor claims activity and durations through the entire claims journey, and should not wait for the insurer's decision prior to commencing their involvement in the claim. This will allow the superannuation fund to consider whether any additional documentation may be required to enable the benefit to be released from the superannuation environment once the insurer has made a decision, and to ensure that the superannuation fund oversees the time frames in which the insurer is assessing the claim
- The superannuation fund's arrangements with a third party administrator must allow the fund to impose the appropriate service levels referred to later in this paper where the administrator plays a role in the assessment and processing of a claim
- An eligibility assessment takes place early in the claim assessment journey so as to identify up front whether the member had cover in place at the relevant date, or should have had cover in place
- Superannuation funds should proactively take measures to ensure that the fund and insurer claims philosophy is sufficiently aligned to meet member obligations
- Superannuation funds should publish their claims philosophy on the fund's website either in full, or in summary form

B.1 Feedback questions

CLAIMS HANDLING PRINCIPLES

1. Do you agree that an industry Code should be developed to guide superannuation funds in the principles to be applied when handling claims?
2. Are there any other guiding principles that you believe should be incorporated into the Code?

B.2 Standard time frames for superannuation fund claims

The Code will set time frames for superannuation funds in relation to various activities within the claims journey, commencing with the first contact from the person claiming to advise of a claim, through to the conclusion of the claim, and payment of benefits if applicable. In this section, a 'claim submission' refers to a claim form, an online claim form or the provision of the relevant information via a telephone interview or other means. Where a telephone interview is conducted, a record of the call will be kept by the superannuation fund and may be sent to the person claiming.

It is expected that standard time frames could be set for the following superannuation fund activities during the claims journey. When developing the Code and good practice guidance, time lines will also be articulated for claims that do not have an insurance component. The time frames set out below in Table 1 have been included to prompt feedback on the appropriate times within which the superannuation fund should take actions.

Table 1: Proposed standard time frames for key actions by superannuation funds in relation to claims

ACTION	TIME FRAME
Issue of claim forms at the request of the person claiming	*Within five business days of receiving the request*[5]
Acknowledgement of receipt of the claim, assess whether the claim has been correctly completed and passing the claim to the insurer for assessment	*Within five business days of receiving the claim submission*
An initial eligibility assessment of the claim upon receipt of a correctly completed submission, to assess eligibility to lodge a claim based on the information that is available at this stage of the claim assessment	*Within ten business days of receiving a correctly completed claim submission*
Response to queries and requests from people claiming throughout the claim assessment period	*Within ten business days of receiving the request*
Proactive communication updates to people claiming throughout the claim assessment period (can be sent by the fund or the insurer, copying the fund)	*Within twenty business days of the last update*

[5] It is noted that most superannuation funds will make claims forms available online and some allow lodgement via phone, however some people claiming may prefer to have forms sent to them.

ACTION	TIME FRAME
The superannuation fund's independent review of the insurer's decision	*Within seven business days of the insurer informing the fund that a claim will be paid; or* *Within fifteen business days if the insurer informs the fund that the claim will not be paid*
If the superannuation fund believes that a claim that the insurer has declined has a reasonable prospect of success: • Advising the insurer that the superannuation fund disagrees with the insurer's decision to decline a claim	*Within five business days from when the superannuation fund has completed its review and reached its decision*
Payment of the claim once a claim amount has been approved	*Within five business days of the superannuation fund confirming that a claim can be paid (provided that all the necessary payment instructions have been received from the person(s) claiming)*

If the person claiming provides additional information for consideration by the insurer and the superannuation fund, some of the above steps may need to be repeated.

The time frame for the superannuation fund to review the insurer's decision on the claim will commence at the conclusion of the time frame provided to the insurer under the FSC Life Insurance Code of Practice where the benefit payment involves the assessment of a life insurance amount. However the superannuation fund must monitor the progress of the claim while it is with the insurer for its decision, to guard against unnecessary delays.

The time frames set out above seek to balance the competing objective of ensuring that people claiming receive a prompt decision in relation to their claim, with the need for thorough investigation by the superannuation fund.

Before an insurer makes a decision that requires it to exercise its opinion that the policy terms and conditions have not been met, they need to provide a person claiming with an opportunity to review and comment on any adverse evidence obtained during the assessment, or to provide additional evidence in support of their claim.

The superannuation fund will ensure the following has taken place prior to a claim being declined:

- The person claiming has been given a copy of all documents obtained during the course of assessment
- Clear guidance is provided to the person claiming with respect to what documents do not support the claim and the basis for forming that view
- The person claiming should be provided any information the insurer has relied on that the member has not previously seen as part of any communication prior to the formal decision being made

The superannuation fund may elect to commence its review of the claim assessment at this stage in order to limit unnecessary delays.

In all cases where a claim has been declined, the superannuation fund will ensure that the reasons for the decline decision are provided to the person who made the claim – this information can be provided to the person claiming by either the insurer or the fund.

When communicating with people claiming, it is important that the superannuation fund provides reasonable expectations in relation to the full end to end time frames for the assessment of their claim, covering both the insurer's decision, and the fund's review of the insurer's decision.

The FSC Life Insurance Code of Practice provides that, for all claims other than income-related claims, the decision will be advised no later than six months after the insurer is notified of the claim, or six months after the end of any waiting period, unless unexpected circumstances apply. When adding the time frames for activities undertaken by the superannuation fund at the lodgement of the claim, and in reviewing the insurer's decision, it is expected that the majority of claims would have an end to end cycle time within seven months unless unexpected circumstances apply.

For income-related claims, the FSC Life Insurance Code of Practice provides that the decision will be advised within two months of the later of the date of notification or the end of the waiting period. When adding the time frames for activities undertaken by the superannuation fund at the lodgement of the claim, and in reviewing the insurer's decision, it is expected that the majority of claims would have an end to end cycle time within three months unless unexpected circumstances apply.

Table 2 below is intended to summarise and bring together the respective time frames provided for insurers under the FSC Life Insurance Code of Practice and the proposed time lines for superannuation funds (as set out above in Table 1), in relation to the key steps involved in the lodgement, assessment, and decision as to whether a claim can be paid.

Table 2: Summary of proposed overall time frames to apply to superannuation funds and insurers in relation to the end to end claims journey

	Step	Superannuation Fund	Insurer	
Lodgement	Send claim forms (where a person claiming has requested a paper form)	Within five business days of the request		For claims other than income-related claims, it is expected that the majority of claims would have an end to end cycle time within 7 months unless unexpected circumstances apply. For income-related claims, it is expected that the majority of claims would have an end to end cycle time within 3 months unless unexpected circumstances apply.
	Acknowledge receipt of the claim, assess whether the claim has been correctly completed and pass the claim to the insurer for assessment	Within five business days of receiving the claim		
	Provision of introductory claims information		Within ten business days of the insurer receiving the claim*	
Assessment	An initial eligibility assessment of the claim (eligibility to lodge a claim)	Within ten business days of receiving a correctly completed claim submission		
	Response to queries	Within ten business days of the request		
	Proactive communication updates to persons claiming throughout the claim assessment period	Within twenty business days of the last update		
Decision	Claims decision by the insurer		Within ten business days of all requirements being received	
	Opportunity for the person claiming to provide additional information (procedural fairness) if the insurer is looking to decline a claim - the person claiming has the right to request copies of documents and information relied on in making the decision		Within ten business days	
	Superannuation fund review of the insurer's decision in relation to the claim	Within seven business days of the insurer informing the superannuation fund that a claim will be paid, or within fifteen business days if the insurer informs the superannuation fund that the claim will not be paid		
	Payment of the claim	Within five business days of the superannuation fund confirming that a claim can be paid		

As outlined above in respect of Table 1, if the person claiming provides additional information for consideration by the insurer and the superannuation fund, some of the above steps may need to be repeated.

* The FSC Life Insurance Code of Practice imposes this requirement on the insurer, and it will depend upon the service model between the insurer and the superannuation fund as to whether the insurer or the fund provides this to the person claiming.

It is recognised that, at any time, the person claiming may instigate a complaint with the superannuation fund at which time the legislated dispute resolution processes and timeframes will commence, although future good practice guidance may encourage superannuation funds to respond to complaints more quickly than the ninety (90) day time frame currently prescribed within the *Superannuation Industry (Supervision) Act 1993*.

Where possible, the time frames proposed above should continue to run simultaneously with any legislative requirements with the latter being the overriding obligation.

Some claims will be more complex than others (for example, a TPD claim notified many years after the date of disablement is likely to be more complex to assess than a claim that is lodged closer to the date of disablement). The Code will need to make allowances for these circumstances and provide the required level of flexibility. This is expected to be similar to the 'unexpected circumstances' referred to in the FSC Life Insurance Code of Practice, which covers circumstances such as late-notified claims, outstanding information from external parties or if the person claiming has not responded to requests for documents or information.

Where activities required as part of the assessment of a claim are outside the control of the superannuation fund (for example, where the insurer is seeking information from third parties such as medical service providers), the superannuation fund will apply oversight to the timeliness of the claims assessment activities, to ensure that delays are not exacerbated due to a lack of focus or escalation.

The superannuation fund will also oversee the activities required of the insurer to monitor whether the insurer is adhering to its obligations under the FSC Life Insurance Code of Practice, and escalate this with the insurer where potential breaches are identified. It is expected that over time, the service level agreements between insurers and superannuation funds will be amended to incorporate or refer to the claims handling time frames imposed on the insurer under the FSC Life Insurance Code of Practice. This is in addition to the Code adherence activities that will be undertaken by the FSC.

If the superannuation fund relies on an administrator to carry out tasks related to claims handling that are the responsibility of the fund, it remains ultimately accountable for these tasks, and must oversee the actions of the administrator accordingly.

B.2 Feedback questions

STANDARD TIME FRAMES FOR SUPERANNUATION FUND CLAIMS

3. What do you consider to be appropriate time frames for superannuation funds to take the actions set out in section B.2 above?
4. Are there any other actions required by the superannuation fund that should have a time frame established?

B.3 Enhancing communications throughout the claims journey

It is proposed that the Code would also prescribe a set of minimum standards to be followed by superannuation funds in communicating with people claiming to keep them informed of the status of their claim.

Superannuation funds may have different structures in place in relation to claims handling, and it would not be appropriate to be overly prescriptive in terms of the content of communications. However the Code would offer guidance and set certain minimum standards with respect to communication with people claiming. This would be expected to address matters such as:

- A requirement for the superannuation fund to provide the person claiming with a summary of the claims journey at lodgement of the claim to assist the person claiming in understanding the steps that are involved
- Helping people understand the terms and conditions of the life insurance policy and what they are covered for and what they are not covered for
- Helping people understand the current status of their claim during the claims journey, and at each stage provide details of what has occurred, what happens next and how long this may take
- Specifying steps within the claims journey at which the superannuation fund would be required to communicate with the person claiming and the steps at which the insurer or administrator may communicate with the person claiming
- Educating people on the role of the superannuation fund, and ensuring that people claiming are advised of the fund's duties to act in the interests of members and beneficiaries and to do what is reasonable to pursue a claim with the insurer if the claim has a reasonable prospect of success
- Requiring the superannuation funds to leverage the information collected by other parties during the claims assessment process rather than asking the person claiming to provide the same documentation to multiple parties
- Ensuring that communication with people claiming provides them with procedural fairness, (an opportunity to make further representations and submissions in relation to their claim) and information on how they can access internal or external dispute resolution mechanisms
- The use of plain English in the drafting of communications, and avoidance of industry jargon where possible
- Communication protocols for contact with the person claiming – in particular:
    - The extent to which communication would be via a single point of contact, or whether there may be multiple parties liaising with the person claiming
    - The person claiming being provided with a choice of contact options such as by phone or via e-mail
    - The extent to which it is appropriate for the insurer to correspond directly with the person claiming at various stages during the claims journey
    - Mechanisms to be agreed between the superannuation fund and insurer to keep the fund informed of any direct dealings between the insurer and a person claiming
    - The level of training and knowledge that should be maintained by staff corresponding with people claiming on behalf of the superannuation fund
    - Arrangements for people claiming to contact a representative of the superannuation fund in person should they wish to discuss their claim

- The use of technology to assist in keeping people claiming updated regarding the status of their claim
- Protocols for correspondence where the member has legal representation
- Timely communication of an insurer's decision in relation to a claim, and provision of information to a person claiming regarding the superannuation fund's role in reviewing the insurer's decision
- Assisting members in understanding their rights and options where they have not met the terms and conditions for a claim to be paid at the present time, but they may be entitled to claim at a later date

Superannuation funds would be expected to provide assistance to any person claiming who is experiencing difficulty in completing claim forms, or in understanding what is required from them in relation to the submission of evidence to support their claim.

With better structured and more customer-friendly communications, it is expected that fewer members would engage the assistance of law firms in the early stages of a claim, where this may not be necessary.

B.3 Feedback questions

ENHANCING COMMUNICATIONS THROUGHOUT THE CLAIMS JOURNEY

5. Do you agree with the development of minimum communication standards for superannuation funds?
6. Should they be mandatory or good practice guidance?
7. What additional/alternative communication should be required to improve understanding of and confidence in the claims process for people claiming?

B.4 Claims handling governance

Superannuation funds operate in a highly regulated environment which already sets out extensive legal obligations and prudential standards to protect members and beneficiaries – this includes:

- The fiduciary role of the superannuation fund's trustee to perform its duties and exercise its powers in the best interests of members and beneficiaries
- Trustee covenants, including a covenant relating to life insurance contained in the *Superannuation Industry (Supervision) Act 1993*
- APRA Prudential Standards
- Disclosure and reporting obligations under the *Corporations Act 2001*
- Licensing regimes and regulatory oversight by APRA and ASIC

In light of the above, we do not believe that there is a need for additional or heightened regulatory requirements in relation to claims handling by superannuation funds. Additional good practice guidance could provide assistance to funds to improve the experience of people claiming.

Superannuation funds may have a range of different practices in relation to the assessment of claims – for example, some may operate formal claims committees that are sub-committees of their Board, others may delegate claims handling tasks to an outsourced administration service provider. We do

not believe it is appropriate to be prescriptive as to how a superannuation fund should structure its governance framework in relation to claims handling, provided that certain minimum standards are being met.

We therefore propose that the Code would provide good practice guidance to superannuation funds in the design of their governance arrangements in relation to claims handling. We anticipate that this would cover:

- Guidance on the appropriate level of involvement that the Board and senior management should have in the framework for handling claims, and the reporting that should be provided
- Guidance on the delegations framework for the superannuation fund's independent assessment of an insurer's decision on a claim
- Guidance on managing potential conflicts of interest where there are related parties involved
- Ensuring that staff involved in claims handling are provided with adequate education and training in both the technical aspects of the role, and in the interpersonal skills that are required to interact with people claiming who may be in a vulnerable state
- The need for superannuation funds to agree an operating model with insurer(s), including the process and circumstances in which the insurer will request additional medical evidence in the process of assessing a member's claim, and arrangements for reasonable oversight of the process for requesting medical information
- The need for people claiming to be provided with procedural fairness throughout the process
- Processes for managing complaints from people claiming in relation to the outcome of a claims decision, or in relation to the way that their claim has been handled
- Guidance on managing declined and disputed claims through the internal and external dispute resolution processes

B.4 Feedback questions

CLAIMS HANDLING GOVERNANCE

8. Do you agree with the development of guidance in relation to governance standards for superannuation in relation to claims handling set out in section B.4 above?
9. Should this be good practice guidance or mandatory minimum standards?
10. What, if any, additional areas should be addressed with respect to governance standards on claims handling?

SECTION C: FURTHER CONSIDERATIONS

C.1 Government reviews

This paper is being published at a time when there are a number of other activities and initiatives underway that could impact the development of a Code and good practice guidance in relation to claims handling. The ISWG is aware of these and will devise the Code and good practice guidance accordingly.

Government reviews currently being undertaken that require consideration in the development of the Code and good practice guidance include:

- Review of the financial system external dispute resolution and complaints framework (Ramsay Review) - the Review issued an Interim Report in December 2016 which proposed potential changes to the structure and operation of the SCT. The Ramsay Review's final report was expected by the end of March 2017.
- Potential for claims handling to be considered a financial service - ASIC Report 498 – Life Insurance Claims, notes that 'handling insurance claims' is specifically excluded from the definition of a financial service in the Corporations Act, which means that ASIC's powers under the Corporations Act generally do not apply to claims handling. ASIC have indicated that this position may be reviewed.
- Consideration also needs to be given to how superannuation funds can better access and use data and technology to improve the claims journey. A Government inquiry into this matter was due to report in March 2017.
- Standardised reporting definitions and reporting of claims data - through recent regulatory reviews and media commentary on life insurance claims, the need for standard reporting definitions for common terms including 'declined claims' has become evident. Standard definitions can enhance the quality and usefulness of reporting.
- Parliamentary Joint Committee Inquiry into the Life Insurance Industry - the Code and good practice guidance would need to take into account the potential regulatory developments relating to insurance in superannuation that may emanate from this inquiry. The Inquiry is due to report its findings by 30 June 2017.

C.2 Involvement of law firms in claims

Superannuation funds have experienced a significant increase in the proportion of claims that involve a legal practitioner acting for the person claiming and a trend towards legal advisers being involved earlier in the claim process. While there is undoubtedly a place for lawyers to assist with disputed claims, the involvement of a legal adviser in the early stages of a claim exposes people claiming to a risk of unnecessarily paying legal fees, as well as unnecessary delays due to the involvement of a third party in the communication.

The superannuation industry intends to work with various legal representative bodies in order to develop protocols for the engagement of legal practitioners in claims for life insurance benefits through superannuation. For example, protocols could be agreed between the superannuation industry and the legal representative bodies that law firms could sign up to as being 'industry approved'. The Code will also address communications protocols in relation to correspondence to be sent directly to people claiming when a legal adviser is involved in a claim.

C.3 Potential for a life insurance claims assistance service

Some consideration has taken place as to whether the life insurance and superannuation industries should establish a claims assistance service to assist people claiming who are having difficulty in understanding and accessing the claims process. The service would assist people claiming in understanding the administrative aspects of a claim, but would not act as the 'advocate' for the person claiming in the claim submission process.

At this stage, the discussions are not sufficiently progressed to be able to provide details as to how this would be funded and structured, however this is something that the life insurance and superannuation industries may look to explore further. We would therefore be interested to hear stakeholder feedback in relation to this concept.

C. Feedback questions

FURTHER CONSIDERATIONS

11. How can superannuation funds better access and use data and technology to improve the claims handling journey for customers?
12. Do you support the reporting of claims data by funds for publication? If so, what information should be reported / published?
13. Should the current exemption of claims handling from being considered a financial service be removed?
14. Is there merit in considering the establishment of an industry-funded claims assistance service to assist people claiming who are having difficulty in understanding the claims process? If so, how would such a service operate and be funded?

SECTION D: OBSERVATIONS AND CONCLUSIONS

Superannuation funds should use the recent focus on the life insurance industry as a prompt to assess their current approach to the life insurance that is offered by them, and to critically assess the governance frameworks and operational processes that each fund has in place with respect to claims handling.

Superannuation funds need to make sure that they are adhering to the duties that they owe to members and beneficiaries of their funds with respect to the management of claims, and also need to be aware of the increasing community expectations in the wake of significant media and regulatory scrutiny applied to the broader life insurance industry.

Superannuation funds operate in a highly regulated environment and the current desire to improve claims handling activities does not necessarily point to any failing in the regulatory framework. The improvements that are proposed in this paper are open to the superannuation industry to make without any change to the legislation / regulations that currently govern the industry.

The community expects high standards to be applied by each superannuation fund in managing the retirement savings of its members, and with the growing importance of life insurance as a significant benefit accessed by members via these funds, these expectations flow through to the end to end management of life insurance claims.

Many superannuation funds are already operating to these high standards, however there is currently no consistent guidance in relation to the manner in which funds administer and oversee claims handling activities. The proposals put forward in this paper aim to remedy this by providing minimum standards where appropriate, and good practice guidance where it would not be feasible to impose specific requirements.

Adherence to such guidelines by superannuation funds will drive higher levels of consumer confidence and member engagement in the ownership of life insurance through superannuation.

LIST OF CONSULTATION QUESTIONS

Your feedback is invited

We invite you to comment on the key questions that have been raised. All submissions will be treated as public documents unless you specifically request that we treat the whole or part of your submission as confidential.

B.1 Feedback questions

CLAIMS HANDLING PRINCIPLES

1. Do you agree that an industry Code should be developed to guide superannuation funds in the principles to be applied when handling claims?
2. Are there any other guiding principles that you believe should be incorporated into the Code?

B.2 Feedback questions

STANDARD TIME FRAMES FOR SUPERANNUATION FUND CLAIMS

3. What do you consider to be appropriate time frames for superannuation funds to take the actions set out in section B.2 above?
4. Are there any other actions required by the superannuation fund that should have a time frame established?

B.3 Feedback questions

ENHANCING COMMUNICATIONS THROUGHOUT THE CLAIMS JOURNEY

5. Do you agree with the development of minimum communication standards for superannuation funds?
6. Should they be mandatory or good practice guidance?
7. What additional/alternative communication should be required to improve understanding of and confidence in the claims process for people claiming?

B.4 Feedback questions

CLAIMS HANDLING GOVERNANCE

8. Do you agree with the development of guidance in relation to governance standards for superannuation in relation to claims handling set out in section B.4 above?
9. Should this be good practice guidance or mandatory minimum standards?

10. What, if any, additional areas should be addressed with respect to governance standards on claims handling?

C. Feedback questions

FURTHER CONSIDERATIONS

11. How can superannuation funds better access and use data and technology to improve the claims handling journey for customers?
12. Do you support the reporting of claims data by funds for publication? If so, what information should be reported / published?
13. Should the current exemption of claims handling from being considered a financial service be removed?
14. Is there merit in considering the establishment of an industry-funded claims assistance service to assist people claiming who are having difficulty in understanding the claims process? If so, how would such a service operate and be funded?

We want your feedback

We invite you to comment on the key questions that have been raised. All submissions on this discussion paper are due by **5 May 2017** and should be sent to the Project Management Office at:

ISWG-PMO@kpmg.com.au

All submissions will be treated as public documents unless you specifically request that we treat the whole or part of your submission as confidential.