EDR Response Guide

Distribution of a superannuation death benefit

This guide assists financial firms to prepare a quality external dispute resolution (EDR) response for complaints about the distribution of a superannuation death benefit. This is a **guide only** and may change over time to reflect feedback.

It is important to note the following:

* All issues raised in a complaint should be addressed. If there are multiple issues, please refer to the additional EDR response guides available or consider addressing them in a separate section.
* This is your EDR response. As such, it is to be sent to AFCA and the other parties. It benefits all parties for the complainant and joined parties to understand the reason for your position.
* AFCA will generally seek more information if a complaint does not resolve at Registration & Referral. AFCA still expects a response to any subsequent requests for information.

To ensure a comprehensive response for death benefit distribution complaints, an EDR response should include the sections outlined below.

### Complaint summary

|  |
| --- |
| Complaint details |
| **Trustee name** |  |
| **Superannuation fund name** |  |
| **Complainant name** |  |
| **Deceased member’s name** |  |
| **AFCA reference** |  |

## Complainant’s and joined parties’ position

Outline your understanding of the complainant’s and each joined party’s position.

Include necessary background information including (but not limited to):

* the reasons for the trustee’s proposed decision(s)
* the trustee’s understanding of the complainant’s relationship and dependency on the deceased member
* the trustee’s understanding of each joined party’s relationship and dependency on the deceased member
* the parties’ objections to the trustee’s proposed distribution and how the trustee has investigated these.

## Financial firm’s position

Briefly outline your position on each of the complainant’s issues.

If you have taken steps to attempt to resolve, include details.

## Financial firm’s reasons for position

Outline how you have considered all the issues raised in the complaint and set out your reasons for your position, noting what information you have considered to reach this view. It is important you consider your obligations and whether you have met them.

In relation to death benefit distribution complaints, AFCA will consider if:

* the complainant has standing to bring a complaint to AFCA
* the trustee has identified all eligible dependants of the deceased
* the trustee’s proposed distribution meets the requirements of its Trust Deed and superannuation law.

## Jurisdictional issues?

Include the details of any jurisdictional issues you wish to raise, such as whether objection to the initial decision was made within 28 days or the complainant has a relevant ‘interest’. Ensure you refer to the AFCA Operational Guidelines and any relevant Approach documents.

Full details of the section of the AFCA Rules must be included to ensure that AFCA and the other parties understand the jurisdictional issue(s) being raised.

## Proposals to resolve the complaint

Set out any action the financial firm is willing to take to resolve the complaint.

If you require further information before you can offer a resolution, please provide details of what information is required.

## Supporting information relevant to a trustee

In relation to a complaint about the distribution of a superannuation death benefit, the following tables should be completed and provided with your EDR response including all supporting evidence/documents:

|  |
| --- |
| Deceased member details |
| **Date of birth** |  |
| **Date of death** |  |
| **Age at date of death** |  |
| **Cause of death** |  |
| **Date the deceased member joined the fund and membership category (including whether the deceased member was a MySuper member)** |  |
| **Total benefit payable (including details of the account balance and any insurance payments received)** |  |

|  |
| --- |
| Beneficiary nominations details |
| Did the deceased have any beneficiary nominations? | *If yes, provide details below* |
| Date of nomination |  |
| Type of nomination  | Binding/preferred/non-lapsing etc |
| Named beneficiaries and allocated % |  |
| Did the deceased have a Will?  | * if yes, has Probate been granted and provided to the trustee?
* if no, have Letters of Administration been granted and provided to the trustee?
 |

|  |
| --- |
| Death benefit claim details |
| Trust Deed details  | * date of relevant executed Trust Deed (applicable to this claim at the date of the deceased member’s death)
* provisions relevant to death benefit distributions relied upon in this decision
* if there has been a relevant successor fund transfer, please provide details
* further information regarding AFCA’s expectation of the correct Trust Deed can be found [here](https://www.afca.org.au/media/1219/download).
 |
| Relevant legislation | * detail any legislation the trustee relied upon in making its decision
 |
| Date of trustee’s initial decision |  |
| Outline initial decision | * beneficiary name
* relationship to deceased member
* percentage of benefit

*Include all proposed beneficiaries ensuring percentage total is 100%** also detail why other competing claimants did not meet the definition of dependant or were not apportioned part or all of the benefit.
 |
| Date initial decision claim staking letters were sent to claimants |  |
| Objection details | * name of each claimant who objected
* date objection received
* was it within 28 days from claim staking letters?
 |
| Date of trustee’s final decision |  |
| Outline trustee’s final decision | * beneficiary name
* relationship to deceased member
* percentage of benefit

*Include all proposed beneficiaries ensuring percentage total is 100%** also detail why other competing claimants did not meet the definition of dependant or were not apportioned part or all of the benefit.
 |
| Date final decision claim staking letters were sent to claimants |  |

## Additional supporting information relevant to a trustee

In addition to the above details, ensure the following evidence is provided with your EDR response:

* a copy of the membership application form completed by the deceased member
* a copy of any application for death insurance made by the deceased member
* copy of the welcome letter sent to the deceased member upon joining the fund
* copy of the deceased member’s nomination of beneficiary form (if any)
* provide copies of annual statements sent to the deceased member
* minutes from any trustee or committee meetings at which the claim was considered
* a copy of all correspondence sent to and received by the fund relating to this claim
* all documentation and submissions received from potential beneficiaries
* applicable birth, death and marriage certificates
* Will, Grant of Probate or Letters of Administration (if held)
* an inventory of the assets and liabilities of the estate
* copies of all notices and letters issued to potential beneficiaries, including reasons provided for the decision.