

# Editorial

May 2022

## Your Super – who to nominate as your beneficiary?

Nominating your super beneficiary is something you have most likely been asked to do if you have a superannuation fund.

But, super fund trustees can only pay your super death benefit to eligible dependants<sup>1</sup> or to your legal personal representative (LPR) who is generally the executor of your Will. If you haven't elected a valid beneficiary the super fund trustee generally decides who your super goes to.

There are important things you should be aware of regarding super dependants.

### Who can you nominate as a super dependant?

#### Spouse

A spouse includes a legally married spouse or de facto spouse, both same sex and opposite sex.

A spouse can be a person you're legally married to but estranged or separated from. So, if you haven't formally ended a marriage, your husband or wife is still considered your dependant under superannuation law. And, while you can't be legally married to two people, it is still possible to have two spouses – a legally married spouse and a de facto spouse.

#### Child

A child includes an adopted child or a step-child. Even though a step-child is included in the definition of a child, if you end the relationship with the natural parent or the natural parent dies, the child is no longer considered your step-child.

However, they may still be considered a financial dependant or in an interdependency relationship with you and could therefore continue to be a beneficiary of your super.

#### Financial dependant

Generally, a person is financially dependent on you if they relied on you for necessary financial support just before you pass away. A person may be wholly or partially financially dependent on you.

#### Interdependency relationship

Two people have an interdependency relationship if they live together and have a close personal relationship. One or each of them must also provide financial support to the other and at least one of each of them needs to provide domestic and personal care to the other.

Two people may still have an interdependency relationship if they do not live together but have a close personal relationship. For example, if they're separated due to disability or illness or due to a temporary absence, such as overseas employment.

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<sup>1</sup> In this article a dependant refers to a 'SIS dependant' which is an eligible person under the Superannuation Industry (Supervision) Act 1993 that a member may nominate as a beneficiary.

Source: Australian Executor Trustees

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## **Who is not a dependant?**

Generally, your parents, siblings or friends who don't live with you and who are not financially dependent on you or in an interdependency relationship with you, are not dependants. If you do not have a dependant you should direct your super to your LPR and prepare a Will which outlines your wishes.

## **Legal personal representative**

An LPR is the person responsible for ensuring that various tasks are carried out on your behalf when you die. If you nominate your LPR as the beneficiary of your superannuation, you are nominating the executor of your Will or if you die without a Will, the administrator of your estate. Your Will should outline the proportions and the people you wish your estate, including your super, to go to.

For assistance in how to nominate your super beneficiaries your financial adviser will be able to help.

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