



DEATH  
CLAIM GUIDE

2021



# WE'RE HERE TO HELP

# DURING A DIFFICULT TIME


We understand making a claim can be overwhelming, that's why we want to help simplify the process for you and your family. To ensure the claim process is as easy as possible, you will have access to a dedicated team of Case Managers to update and support you.

The aim of this guide is to assist you when applying to make a claim after someone has passed away. Keep in mind, it is only a guide and some things may vary depending on individual circumstances.

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GUIDE TO COMPLETING  
YOUR DEATH CLAIM  
INFORMATION FORM  
AND UNDERSTANDING  
THE CLAIM PROCESS

## WHAT IS A DEATH CLAIM?

This is a claim for a deceased person's super benefit and death insurance cover that they may have held in their super account.

## WHO CAN MAKE A DEATH CLAIM?

We will accept the lodgement of a death claim from a:

- spouse or de facto spouse
- late member's children or dependants
- someone with whom the member has an 'interdependency relationship', for example a spouse or child who depends on the member financially
- legal personal representative\* acting for the deceased's estate, or
- any other person who may have an interest in the benefit.

## WHO CAN BE A BENEFICIARY?

Under the *Superannuation Industry (Supervision) Act 1993* (known as SIS), a dependant includes:

- the member's spouse
- the member's child of any age
- someone with whom the member has an 'interdependency relationship', for example a spouse or child who depends on the member financially, and
- the legal personal representative\* or the member's estate.

Refer to the **Frequently Asked Questions** for more information about terms in this document marked with an asterisk (\*).

# HOW DO I MAKE A CLAIM?

## 1 CONTACT US



Call us on 133 665 from 8.30am to 6.30pm (AEST) weekdays. We can help you with any questions you may have about the claim, even if you are not sure if you can apply.

## 2 SEND CLAIM PACK



We'll send you the Claim Pack which includes this Guide and the Form for you to complete. Or you can download the Guide and Form on our website: [onepath.com.au/superandinvestment/claims](http://onepath.com.au/superandinvestment/claims)

## 3 COMPLETE AND RETURN CLAIM DOCUMENTS



You'll need to complete the Form following the instructions in this Guide. If you have any questions or need help call us on 133 665.

Please read and complete the documents required using the checklist to ensure you have everything needed for the claim.

You can return the required information to:

**OnePath Custodians Pty Limited**  
GPO Box 5306  
Sydney NSW 2001

or

**Email:** [superclaims@onepath.com.au](mailto:superclaims@onepath.com.au)



## WHAT HAPPENS NEXT?

### 4 ASSESS CLAIM



Once we receive your claim, we must satisfy a number of requirements first. Assessment of eligibility for insurance cover will be completed within 5 business days, before sending the claim to the Insurer.

The Trustee will concurrently review your claim with the Insurer then review all the information provided and make a decision on the member's Insurance benefit.

If there is no insurance attached to the account, the Trustee will assess the determination of the distribution of benefits.

If there are competing claims from potential beneficiaries, the Trustee will make a proposal in relation to the distribution of the benefit and provide potential beneficiaries with an opportunity to object.

### 5 CLAIM DECISION AND PAYMENT



We may need your help with additional information, during this process.

If the late member had insurance through super, the Trustee will review to verify the Insurer has made a properly informed decision.

If the insurance claim is **approved**, it will be paid to beneficiaries either as a lump sum, or an income stream, or a combination of both (subject to eligibility), within 5 business days of receipt of the Trustee's decision.

Before making a decision, we encourage you to seek personal tax and/or financial advice that takes in account your personal circumstances. A financial or tax adviser can provide advice taking into account your personal circumstances, needs and financial objectives.

If the insurance claim is **declined**, the first step is you will be advised within 5 business days by the Trustee. The next step is whether the Trustee agrees with the Insurer's decision to decline. You can disagree or contact the Trustee with the Insurer and Trustee's decision, by lodging an objection in writing.



The Trustee will review the objection and provide a final response within 90 days. In exceptional cases we may require more time to investigate and respond.

We will ensure you are kept informed during this period and provide an update every 20 business days.

#### Our Case Managers can help:

- Explain the claim process to you and help guide you through what comes next
- Respond to any questions you may have
- Keep you updated about the progress of your claim – every 20 business days
- Process final payment, and
- Oversee the claim process.

# THE TRUSTEE AND INSURER RESPONSIBILITIES

| Group              | Responsibilities   |
|--------------------|--|
| <b>The Trustee</b> | <ul style="list-style-type: none"><li>• Is the issuer of the super product, and is ultimately responsible for the way the product operates.</li><li>• Is the Policy Owner of the Insurance Policy.</li><li>• Has specific duties to the fund's members, including a duty to act in the best interests of members and beneficiaries.</li><li>• Will make a decision on the appropriate beneficiary or beneficiaries to receive the death benefit in respect of the late member of the fund. This process will be governed by provisions in super law, and the fund's Trust Deed.</li><li>• Will complete an independent review of the Insurer's decision where life insurance is attached to the super account.</li><li>• To do everything that is reasonable to pursue an insurance claim for the benefit of a beneficiary, if the claim has a reasonable prospect of success. Determine who will receive a payment according to super law and the Trust Deed.</li><li>• Manage any objections to claim proposals or decision.</li></ul> <p> <b>If the Insurer accepts the claim:</b><br/>The insurance amount will form part of the death benefit in addition to the super benefits.<br/>The Trustee then determines who should be paid the benefit in line with the Fund's Trust Deed and super laws.</p> <p> <b>If the Insurer declines the claim:</b><br/>The Trustee will independently review the Insurer's decision. The Trustee has a duty to do everything that is reasonable to pursue an insurance claim for the benefit of a beneficiary, if the claim has a reasonable prospect of success.<br/>If the Trustee agrees with the Insurer's decision to decline the claim, the Trustee will write to you stating the reason(s) why it agrees with the Insurer's decision.</p> |
| <b>The Insurer</b> | <ul style="list-style-type: none"><li>• Must act in good faith in assessing the claim.</li><li>• Reviews the claim for insured benefits and will advise claimants directly if it determines more information is required.</li><li>• Decides if a death insurance payment can be made based on the policy terms and conditions.</li><li>• Depending on the Insurer you may also receive updates on the progress of the claim, regarding insured benefits.</li></ul>   |

## HOW DOES THE TRUSTEE DECIDE WHO THE BENEFIT WILL BE PAID TO?

If the deceased member did not make a nomination or if the nomination is invalid, the Trustee will consider the available information to ensure the benefit is paid in line with the Fund's Trust Deed and super laws.

In some cases, the Trustee may exercise discretion as to the portion of the benefit to be paid to dependants or other person(s) if there was no nomination, valid estate or dependant(s) at the date of death.

The Trustee will write to potential beneficiaries and interested parties to advise of the proposal. Recipients of the Trustee's proposal letters will have 28 days from the date of receipt to respond if they are not satisfied with the proposal. If no objection is received within the given timeframe, the Trustee will make a determination to pay the benefit, advise potential beneficiaries of their decision and allow a further 28 days from the date of receipt for a potential beneficiary to lodge a complaint with the **Australian Financial Complaints Authority (AFCA)** if they disagree with the Trustee's decision.





## HOW DO I MAKE A COMPLAINT?

### If you disagree with:

- the outcome of the Trustee's proposal, or
- the decision on who will receive the benefit, or
- the decision on an insurance claim for the late member, or
- you are dissatisfied with the management of your claim, you can lodge a written complaint or contact us.

We will acknowledge your complaint upon receipt and respond to you in due course. Our investigation into your concerns may take up to 90 days, however we will aim to provide a written response or resolution within 45 days.

### Next steps:

If you have any questions or would like further information, please:



email us at [customer@onepath.com.au](mailto:customer@onepath.com.au)



visit our website [onepath.com.au](http://onepath.com.au)



call Customer Services on 133 665, weekdays between 8.30am and 6.30pm (AEST).

### Keep in mind, the Trustee is the customer advocate and has a duty of care to act in the best interests of members and beneficiaries.

If you wish to lodge a complaint, you can write to our **Complaints Team**

Email: [super.feedback@ioof.com.au](mailto:super.feedback@ioof.com.au)

Address: Complaints Team  
OnePath Custodians Pty Limited  
GPO Box 5367  
Sydney NSW 2001

### Further help – the Australian Financial Complaints Authority (AFCA)

You have the option to lodge a complaint with AFCA directly rather than lodging a complaint with us. Otherwise, you can also lodge a complaint with AFCA if you are not satisfied with our response or if your complaint has not been resolved within the maximum timeframe prescribed by RG165/RG271. AFCA provide a fair and independent financial services complaint resolution that is free to consumers.

Website: [www.afca.org.au](http://www.afca.org.au)

Email: [info@afca.org.au](mailto:info@afca.org.au)

Phone: 1800 931 678 (free call)

In writing:

**Australian Financial Complaints Authority**  
GPO Box 3  
Melbourne VIC 3001

Time limits may apply to complain to AFCA and so you should act promptly or otherwise consult the AFCA website to find out if or when the time limit relevant to your circumstances expires.

# YOUR CLAIM PACK INCLUDES:

1. This Death Claim Guide
2. Death Claim Information form
3. Withdrawal form

Your claim checklist:

- Please ensure all the documents below are fully completed, signed, dated and included when returning your Claim Pack.
- All copies of original documents must be certified.
- Please retain original documents as they may be needed for other purposes.

Required documents to start the claim process:

- Death Claim Information form
- Withdrawal form
- Certified copy of the full death certificate

| Additional documents as applicable   | Further information   | Attached                 |
|--|---|--------------------------|
| Certified copy of the late member's Will   | If the late member left a Will                                      | <input type="checkbox"/> |
| Certified copy of the deceased member's identification   | For Member and insurance verification                               | <input type="checkbox"/> |
| Certified copy of Grant of Probate or Letters of Administration  | Only if already obtained  | <input type="checkbox"/> |
| A listing of the estate's assets and liabilities or a written statement as to the estate's solvency  | If a Grant of Probate or Letters of Administration have been issued | <input type="checkbox"/> |
| A certified copy of the identification of the nominated beneficiary/beneficiaries OR a certified copy of the identification document of the intended payee | Know Your Customer (KYC) requirements                               | <input type="checkbox"/> |

Please provide the following documents only if applicable to your claim:

| Documents as applicable                            | Further information                      | Attached                 |
|--|--|--------------------------|
| Deceased member's name change document             | If different on system or statements     | <input type="checkbox"/> |
| Executor(s) or Administrator(s) identification     | Required for estate payment              | <input type="checkbox"/> |
| De facto Statutory declaration                     | For unmarried spouse                     | <input type="checkbox"/> |
| Financial or Interdependency Statutory declaration | If proving dependency on the late member | <input type="checkbox"/> |

# FREQUENTLY ASKED QUESTIONS

## 1. What is a super death benefit?

A super death benefit is the payment of a person's super after their death, along with any death insurance cover they may have held through their super account.

## 2. Where do I get the death certificate?

A death certificate is issued by the government registry for births, deaths and marriages in your state, and will be sent to the nominated next of kin. The government registry can be contacted directly or depending on your circumstances, a funeral director, the executor of the estate or a solicitor can help to submit paperwork to obtain the death certificate on your behalf.

## 3. What does 'certified' mean?

Apart from the forms we send you, each document provided as part of your claim must be certified to be a genuine copy of an original document. Only an authorised person can certify original documents, sighting the original and the copy to ensure both are identical.

On a single-page document, the authorised person must write or stamp 'This is a certified true copy of the original as sighted by me' or on a multi-page document, 'I certify this and the following X number of pages to be a true copy of the original as sighted by me' on the first page and initial all other pages. The authorised person must also date, sign and print their name and qualification (for example, Justice of the Peace) on the document.

Authorised persons include a Justice of the Peace, solicitor or medical practitioner or anyone who can certify under the *Statutory Declaration Act 2018*. Please retain the original documents as they may be needed for other purposes.

## 4. What is a Will and what does an Executor do?

The Will specifies how a person's assets are to be divided when they die and nominates an Executor who is responsible for looking after their estate.

The Executor administers the deceased person's Will. The Executor must locate the Will and follow the instructions given in the Will for funeral arrangements and all assets. This includes finalising any outstanding liabilities and distributing the assets in accordance with the deceased person's instructions.

## 5. What is Probate?

Probate is the legal process of proving that a Will is valid and represents the deceased's final intentions. It includes appointing the Executor and finalising the estate settlement. A grant of Probate is not required in every case. It will likely be needed if the deceased owned significant assets and people or organisations who are holding those assets will not release them without the grant of Probate. Check with your State's justice department for more information.

## 6. What is a dependant?

Under super law and the Fund's Trust Deed, a dependant includes:

- The Spouse of the late member. Spouse includes another person (whether of the same sex or a different sex) with whom you are in a relationship that is registered under a State or Territory law or a person who, whether or not legally married to you, lives with you on a genuine domestic basis in a relationship as a couple;
- The children of the late member (including an adopted child, a stepchild, or an ex-nuptial child, a child of your spouse, or someone who is considered your child under family law);
- Any other person who the Trustee believes is or was at the time of the late member's death, financially dependent on the late member;
- Any other person with whom the late member had an 'interdependency relationship at the time of the late member's death' (see Question 7 below).

## 7. What is an interdependent?

Two people (whether or not related by family) have an 'interdependency relationship' if:

- They have a close personal relationship; and
- They live together; and
- One or each of them provides the other with financial support; and
- One or each of them provides the other with domestic support and personal care.

An interdependency relationship can also exist where two people who (whether or not related by family) have a close personal relationship but do not meet the other criteria listed above. This may be because either or both of them suffer from a physical, intellectual or psychiatric disability or they are temporarily living apart. The Trustee will rely on super laws to determine the circumstances that two persons have an interdependent relationship.

## 8. What is a 'Legal Personal Representative'?

**Legal Personal Representative** has the same meaning as in Superannuation Law, however:

- (a) subject to paragraph (b) below, a person does not have a Legal Personal Representative unless:
  - i. a grant of probate has been made;
  - ii. letters of administration have been issued; or
  - iii. such equivalent authority as the Trustee determines for jurisdiction outside Australia has been conferred on a person and
- (b) if the Trustee is reasonably satisfied that the value of the estate of a person is less than the amount which the Trustee from time to time specifies as the 'probate limit' then the Trustee may treat a person who does not meet the criteria (a) above but who the Trustee is reasonably satisfied will, in practice, be informally performing the role of executor or administrator of the deceased person's estate for all purposes as if they were that person's Legal Personal Representative.

## FREQUENTLY ASKED QUESTIONS (CONTINUED)

### 9. What is the difference between a lapsing and non-lapsing nomination?

A lapsing nomination refers to a beneficiary or beneficiaries' nomination that is subject to time constraints. The Trustee must pay a death benefit to the beneficiary or beneficiaries nominated by the deceased person and in such proportions as they have specified, provided:

- Each nominated beneficiary is a dependant or the Legal Personal Representative at the time of death;
- The lapsing nomination is current at the time of the deceased person's death, i.e. the form containing the nomination has been confirmed or amended within three years after the day it was first signed, or last confirmed or amended by the deceased;
- The lapsing nomination is in writing and two persons over the age of 18 years who are not nominated beneficiaries, have witnessed the deceased signing the nomination.

A non-lapsing nomination is the nomination of a beneficiary or beneficiaries that, if it satisfies all legal requirements, will not expire over time. In addition, the Trustee is required to pay the deceased's money to the nominated beneficiary or beneficiaries in the proportions that were specified. This is subject to the beneficiary or beneficiaries being either a dependant at the time of the deceased's death, or the Legal Personal Representative (Estate) and the non-lapsing beneficiary nomination being current at the time of death. However, a non-lapsing nomination can become invalid due to other factors.

### 10. What does eligibility mean?

All claims must satisfy our claim requirements and meet the terms and conditions of the deceased person's insurance policy (if the deceased held insurance cover in their super account).

The Trustee will assess eligibility to lodge a claim for Insured benefits within 5 business days of receiving your claim.

For further information, please call Customer Services about the relevant PDS on 133 665, weekdays between 8.30am and 6.30pm (AEST).

### 11. Do I need a solicitor to make a claim?

No, there is no need to engage a solicitor to make a claim. The Trustee of the super fund can assist you with your claim, throughout the insurance claim process. Simply contact us if you need help.

You may choose to seek independent legal advice in relation to your claim. This means you must authorise your legal adviser/solicitor to contact the Trustee on your behalf if you would like us to correspond with your legal adviser/solicitor.

Please note: You will be responsible for paying the fees for any legal advice, the Trustee does not fund this on your behalf.

### 12. Is there a time limit to claim a death benefit?

There is no time limit for claiming a death benefit, however we recommend lodgement of the claim as soon as practicable. The Trustee is required to pay monies to the Australian Tax Office (ATO), after a period of time and if they meet certain criteria to be considered 'Unclaimed Monies'.

### 13. Who will the death benefit be paid to?

If the late member had made a beneficiary nomination on their super account, the Trustee will generally pay any valid beneficiaries who are nominated.

If the nomination is invalid, the Trustee will conclude which beneficiary and/or estate is to be paid in accordance with rules set out in the fund's trust deed, or in accordance with super law.

Further information may be required by the Trustee including:

- The Will and Grant of Probate
- Letters of Administration – if the deceased person did not leave a Will, you will need to advise the Trustee if you will apply for a grant of Letters of Administration. This allows an appointed Administrator to manage and distribute the deceased person's assets.

### 14. How the Trustee decides who to pay?

If the deceased member did not make a nomination, the Trustee will consider the available information to ensure the benefit is paid in line with the Fund's Trust Deed and super laws. In some cases, the Trustee may exercise discretion as to the portion of the benefit to be paid to dependants or to determine other person(s) if there was no valid estate or dependant(s) at the date of death.

The Trustee will write to potential beneficiaries and interested parties to advise of the proposal. Recipients of the Trustee's proposal letters will have 28 days from the date of receipt to respond if they are not satisfied with the proposal. If no objection is received within the given timeframe, the Trustee will make a determination to pay the benefit, advise potential beneficiaries of their decision and allow a further 28 days from the date of receipt for a potential beneficiary to lodge a complaint with the Australian Financial Complaints Authority (AFCA) if they disagree with the Trustee's decision.

### 15. What is the Trustee's role regarding insurance claims?

If insurance is included in the claim, the Trustee will conduct a thorough review and investigation into the Insurer's decision. No portion of the insurance benefit will be paid until the Trustee is satisfied that all issues are resolved.

## 16. Tax Treatment

The Trustee may be required by law to withhold tax from payments made.

### Definitions of dependant for SIS Act and Tax Act purposes

Regulatory references:

SIS dependant – *Superannuation Industry (Supervision) Act 1993* and *Superannuation Industry (Supervision) Regulations 1994* determine who is able to receive a death benefit and the form in which a benefit can be paid.

Death benefits dependant for tax purposes – Subdivision 302-D of *Income Tax Assessment Act 1997* determines who is a death benefits dependant.

| Recipient   | SIS dependant   | Death benefits dependant – Tax |
|---|-----------------|--------------------------------|
| Spouse – legally married  | Yes             | Yes                            |
| Spouse – separated although still legally married                                       | Yes             | Yes                            |
| Former spouse – i.e. divorced or former de facto spouse                                 | No <sup>1</sup> | Yes                            |
| De facto spouse <sup>2</sup> or person in a registered relationship                     | Yes             | Yes                            |
| Child under 18 years of age (including ex-nuptial, adopted or stepchildren)             | Yes             | Yes                            |
| Child over 18 years of age (including ex-nuptial, adopted or stepchildren):             |                 |                                |
| • Financial or interdependent   | Yes             | Yes <sup>3</sup>               |
| • Not a financial or interdependent   | Yes             | No                             |
| Disabled child of any age   | Yes             | Yes <sup>3</sup>               |
| A person other than those listed above that is a financial or interdependent            | Yes             | Yes                            |
| A person other than those listed above that is <b>not</b> a financial or interdependent | No              | No                             |

1 Unless a financial dependant or interdependent.

2 A de facto spouse is another person who, although not legally married to the deceased member, lived with them on a genuine domestic basis in a relationship as a couple.

3 A disabled child over 18 years of age will only be a tax dependant if they were also a financial dependant or interdependent.



### Customer Service

If you have any questions or would like further information, please:



email us at [customer@onepath.com.au](mailto:customer@onepath.com.au)



visit our website [onepath.com.au](http://onepath.com.au)



call Customer Services on 133 665,  
weekdays between 8.30am and 6.30pm (AEST).