

Small Claims, Large Battles Briefing Paper

Improving the Disclosure of Superannuation Fund Information in the Family Law System

Women's Legal Service Victoria ("WLSV") established the Small Claims, Large Battles project in 2015 to investigate the barriers to fair financial outcomes in the family law system for vulnerable and disadvantaged women, particularly those experiencing family violence. The project was a collaboration between WLSV and pro bono law firm partners Landers & Rogers and Herbert Smith Freehills.

The final report, *Small Claims, Large Battles: Achieving Economic Equality in the Family Law System*, was publicly launched in March this year by the Honourable Diana Bryant (former Chief Justice of the Family Court) and Sarah Henderson MP. The launch received extensive media coverage. The report includes 15 recommendations for reform that will, if implemented, improve women's access to fair financial outcomes.

Improving access to a perpetrator's superannuation fund details

For 21% of the women represented in the Small Claims, Large Battles Project, superannuation was the only significant asset. Project findings demonstrated that the process for obtaining a superannuation split proved to be too complex to navigate for women experiencing relationship breakdown and family violence. Without a former spouse voluntarily disclosing the name of their superannuation fund(s), there are no other mechanisms by which an individual can find the fund of their former partner. This is despite the legal obligation on parties, in family law matters, to make full and frank disclosure of their financial position. There are few effective disincentives for non-disclosure and alternative information finding processes, such as issuing subpoenas are costly and not guaranteed to return the required information.

An easy and affordable solution

One of the key recommendations that WLSV is pursuing in 2018 is recommendation 5:

"The Australian Government provide an administrative mechanism for the release of information about the identity of a former partner's superannuation fund and its value"

WLSV has been advocating at the federal level for the administrative mechanism to be administered through the ATO and for the release of information to be provided directly to the family law courts upon application. The ATO and other stakeholders have been supportive of this proposal.

The proposal is timely, affordable and can be easily implemented by the ATO. If implemented, one of the barriers for vulnerable and disadvantaged women accessing a fair superannuation split will be removed.

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To access the final report visit: <https://www.womenslegal.org.au/creating-change/small-claims%2C-large-battles.html>