

Legislating the objective of superannuation

Submission

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About The Conexus Institute

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About David Bell

Dr David Bell is Executive Director of The Conexus Institute. Bell's career has been dedicated to the investment and retirement sector. He has worked with both commercial and profit-for-member firms, and ran his own consulting firm. Bell worked with APRA in the development of the APRA Heatmap. Academically, Bell taught for 12 years at Macquarie University and in 2020 completed his PhD at UNSW which focused on retirement investment problems. Full bio [here](#).

About Geoff Warren

Dr Geoff Warren is an Associate Professor at the Australian National University and Research Director with the Consensus Institute, as well as a member of various investment and research advisory boards. Warren's research focuses on investment-related areas specially including superannuation and retirement, and is widely published in leading journals. He has a prior career in the investment industry spanning over 20 years. Full bio [here](#).

Acknowledging Jeremy Cooper for his contribution to this submission.

***** The authors are willing and able to participate in further consultation. *****

1. Summary and recommendations

We support legislating an objective of superannuation. At least five important factors make this a challenge, heightened by the fact that these factors interact:

1. The super system has been in place for decades without an objective, during which time various governments have contributed to the current policy settings.
2. Super is an important component of the wider retirement income system for which an objective has not been developed.
3. It is important to consider living experiences throughout all of life, not just retired life. We refer to this as “whole-of-life” or “lifecycle” outcomes. The direct exchange between working life and retirement income was well-established in the Retirement Income Review (RIR).¹
4. Super has become a heated topic in politics and the media, with a broad spectrum of strong ideologies brought to bear on an increasingly wide spectrum of its operations.
5. The need to adapt to the changing demands that the economy and society more broadly places on a retirement income system, including super.²

A common theme running through many of the above factors is that superannuation interacts with other components of individual welfare and the broader system. These interactions can be overlooked if an objective of super is set and pursued in isolation.

Recommendations

We make a small number of suggestions, which we keep reasonably succinct. We frequently find ourselves referring to the five points raised above.

1. The case for creating an objective of the retirement income system should be reconsidered.
2. Consideration be given to acknowledging (1) whole-of-life outcomes and (2) management of financial risks in retirement, either as primary or subsidiary objectives (discussed below).
3. Consideration be given to utilising subsidiary objectives to complement a primary objective. This can help facilitate a concise core objective while providing clarity on issues identified as non-core.
4. Design a robustness test whereby Treasury stress test their proposed objective of super through a range of scenarios to assess whether the proposed objective deals with those scenarios appropriately. See section 4 for further details.

¹ Retirement Income Review Final Report, pages 159 – 161.

² Cooper, Jeremy, Fiscal Issues and Super: Can There Ever Be Equilibrium? (August 26, 2016). Available at SSRN: <<https://ssrn.com/abstract=2843370>>

5. Through a narrow prism, the sole purpose test in section 62 of the *Superannuation Industry (Supervision) Industry Act 1993* (Cth) (SIS Act) might currently be the only legislated purpose of super. There is potential for tension between an articulated objective contained in separate legislation to that expressing the purpose. We suggest at least establishing a clear link or reconciliation between the two. It might also make sense for the legislated objective to be in the SIS Act itself.
6. Developing formal definitions for key terms appearing in the objective would aid the creation of common understanding. Many terms are open to interpretation, including 'dignified', 'equitable' and 'sustainable'. The meaning of 'income', 'preserve' and 'government support' are also not necessarily straightforward. We touch on some of these matters below.

2. Consultation questions

2.1. What do you see as the practical benefits or risks associated with legislating an objective of Australia's superannuation system?

We identify both benefits and risks with legislating an objective of super. The outcomes are affected by the accountability mechanisms (checks and balances) and the wording of the objective.

Good outcomes could include more consistent policy formation and improved policy accountability. At a consumer level, there would be greater understanding of the role of super, and this would increase confidence and, possibly, engagement.

Poor outcomes could come from the scope for interpretation of the objective by policymakers, and an associated ability to use the objective to 'push through' policy even where the consistency with the objective is questionable. We have concerns, discussed throughout, that the proposed objective of super risks not being aligned with broader life cycle and system objectives. These elements could result in loss of consumer confidence.

2.2. Does the proposed objective meet your understanding of the objective of the superannuation system in Australia?

We make the following reflections:

1. We previously commented that the task of developing wording of an objective of super is challenged by the absence of an objective of the retirement income system. In the context of retirement, super is one of three recognised pillars of the retirement system. A specific objective of super could be more concisely stated if there was an objective for retirement income policy. In absence of such an objective, we note the inconsistency of referencing the Age Pension in the proposed objective while not referencing the third pillar of voluntary savings including home ownership.

2. The “deliver income” aspect of the objective is important, but we also note the increasing number of people retiring with mortgage debt.³ It is likely that super will be used to pay down outstanding debt, as the RIR assumed in their modelling. We question whether an objective of super should more realistically reflect this use of retirement savings. This issue is nuanced. For instance, the action of paying down mortgage debt at the point of retirement could be viewed as part of income management (i.e. boosting available income through removing an outgoing). Thus we could satisfy ourselves that “deliver income” is appropriate. However, we consider it unlikely that most consumers would form a similar interpretation without further guidance.
3. We reiterate our concerns expressed earlier that the proposed objective does not appropriately balance whole-of-life outcomes. As a test case, consider further increases in the Superannuation Guarantee (SG) rate. While this would appear broadly consistent with the proposed objective of super, it also reduces income prior to pre-retirement and could be detrimental to the whole-of-life experience. One possible solution would be to broaden the explanation of ‘equitable and sustainable’ to include consideration of whole-of-life outcomes. The use of subsidiary objectives (discussed below) could also work.
4. In a similar vein, preservation is referenced in the proposed objective, and is generally recognised as an important design principle of a defined contribution pension system. However, we believe it is important that preservation is matched by a focus on the appropriate contribution level that is cognisant of whole-of-life outcomes. For instance, if the current SG level is too high (as suggested by the RIR) then the principle of preservation will always face tension. This might undermine acceptance of any legislated objective of super.
5. The word ‘dignified’ raises concerns around ambiguity. We consider the word to be subjective in its interpretation at a policy level, and highly personal at an individual or household level. We also consider that it has aspirational elements that need to be appropriately balanced against whole-of-life outcomes (as raised above). The term ‘adequacy’ has been commonly used in this topic area, including the RIR. It isn’t clear why ‘dignified’ was chosen over ‘adequate’.

2.3. Is the proposed approach to enshrining the objective in legislation appropriate? Are there any alternative ways the objective could be enshrined?

Yes, other than Constitutional reform.

2.4. What are the practical costs and benefits of any alternative accountability mechanisms to the one proposed?

We offer no comment on this question.

³ See Retirement Income Review Final Report Chart 1D-16.

3. Primary and secondary objectives

The 2014 Murray Inquiry (FSI) urged the Government to not only adopt its proposed purpose of super, but also to seek broad agreement on six subsidiary objectives of the super system. This framework warrants consideration. Subsidiary objectives would add value to the primary objective that has been put forward for the current consultation. Additionally, the framework could enable a more concise primary objective.

A framework of primary and secondary objectives could facilitate a list of what super is not for and could exclude:

- Early access, e.g. housing deposits, medical procedures, economic disruptions, etc;
 - Measures that are largely tax gimmicks such as downsizer concessions; small business concessions, and so on;
 - Reducing minimum drawdown requirements whenever there is an apparent market disruption;
 - Other changes such as significantly opening up super to be used for housing or making part of super voluntary.
- .. etc.

In the FSI, the first two suggested subsidiary objectives were to:

1. *“Facilitate consumption smoothing over the course of an individual’s life: Superannuation is a vehicle for individuals to fund consumption in retirement largely from working life income. The system should facilitate consumption smoothing while providing choice and flexibility to meet individual needs and preferences.”*
2. *“Help people manage financial risks in retirement: Risk management is important as retirees generally have limited opportunities to replenish losses. The retirement income system should help individuals manage longevity risk, investment risk and inflation risk. Products with risk pooling would help people to manage longevity risk efficiently.”*

We refer to (1) throughout this submission while we believe that (2) warrants consideration as a subsidiary objective. Even though it is central to trustees’ duties under the Retirement Income Covenant (RIC) it warrants strong consideration as an objective of super (within which the RIC directs responsibility).

4. Stress testing a proposed objective of superannuation

We think it would be a healthy exercise to stress test any proposed objective of super through a range of scenarios, to ensure that pursuing the objective does not give rise to any unintended consequences thereby improving its robustness. We suggest a range of scenarios could be considered including the following:

1. Proposed change in the level of superannuation guarantee;
2. Increasing trend in mortgage indebtedness at the point of retirement, such a rising proportion of population or size of outstanding debt;

3. Decreased level of home ownership at the point of retirement, noting it is currently trending downwards;
4. Increase in cost-of-living pressures;
5. Material changes to tax treatment of super either in accumulation or retirement (or both);
6. Extreme case for nation building, e.g. accelerated transition to net zero carbon emissions;
7. Material increase/decrease in mortality experience or retiree life expectancies;
8. Research that reveals working life experiences are below those projected for retired life.