

# Claiming a death benefit

This fact sheet contains some important information on claiming a person's super and insurance benefits (if applicable) after their death.

## What is a death benefit?

A death benefit comprises:

- > the member's account balance; and
- > any insurance benefit payable (based on the member's age, level of cover and occupation), if the member was eligible for insurance cover.

If the member was not eligible for insurance cover, the death benefit will only consist of the account balance plus any earnings to the date of payment. Please note, earnings can be positive or negative and are based on the member's recorded investment option.

## Who can claim a death benefit?

Anyone with a legitimate claim can claim a death benefit, however the Fund Trustee is bound by Government legislation and the Fund's Trust Deed (a legal document that sets out the rules that govern the Fund), in determining who they can pay a benefit to.

Generally, the more claimants there are, the longer the process takes to be finalised.

## Who will be paid a death benefit?

A death benefit will be paid to the member's **dependant(s)**, their **legal personal representative (LPR)** or if neither of these exist, then another person such as a relative can be considered.

A member may have had in place a valid binding death nomination. If this nomination was for a dependant or their LPR, the Trustee must follow this direction.

### A dependant of a former member is:

- > their spouse; or
- > a child of the former member; or
- > any other person who, in the opinion of the Trustee, was wholly or partially **financially dependent** on the member at the time of death; or
- > any other person with whom, in the opinion of the Trustee, the member has an **interdependency relationship** at the date of death.

### A spouse of a former member is:

- a) a person to whom the member is legally married (whether of the same sex or a different sex); or
- b) the widow or widower or a person who was at the date of death of the member living with the member on a genuine domestic basis in a relationship as a couple; or
- c) another person (whether of the same sex or a different sex) with whom the member was in a relationship that is registered under a law of a State or Territory\*.

\*As prescribed for the purposes of s22B of the *Acts Interpretation Act 1901*.

### A child of a former member includes:

- a) an adopted child, a step-child\* or an ex-nuptial child; or
- b) a child of the member's spouse; or
- c) a child of the member within the meaning of the Family Law Act 1975.

\*Note: A step-child relationship no longer exists where the member and biological parent have finalised a divorce.

**Financial dependency** can be defined as a relationship in which the deceased member, at the time of their death, contributed financially (in at least a partial way) toward the other person's subsistence. This may include the provision of food, accommodation, clothing, transportation, education, etc.

An **interdependency relationship** exists between two persons (whether or not related by family) 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 or support and care of a type and quality normally provided in a close personal relationship rather than by a mere friend or flatmate; and
- > any other matters are or are not taken into account as specified in the *Superannuation Industry (Supervision) Regulations 1994 (SIS)*.

If the two persons have a close personal relationship, but do not meet the criteria listed above because:

- > either or both of them suffer from a physical, intellectual, psychiatric or other disability; and
- > they are temporarily living apart;

they will still be regarded as having an interdependency relationship.

**Please note:** In the majority of cases, parent/child relationships generally would not be found to qualify as interdependency relationships.

## Legal Personal Representative (LPR)

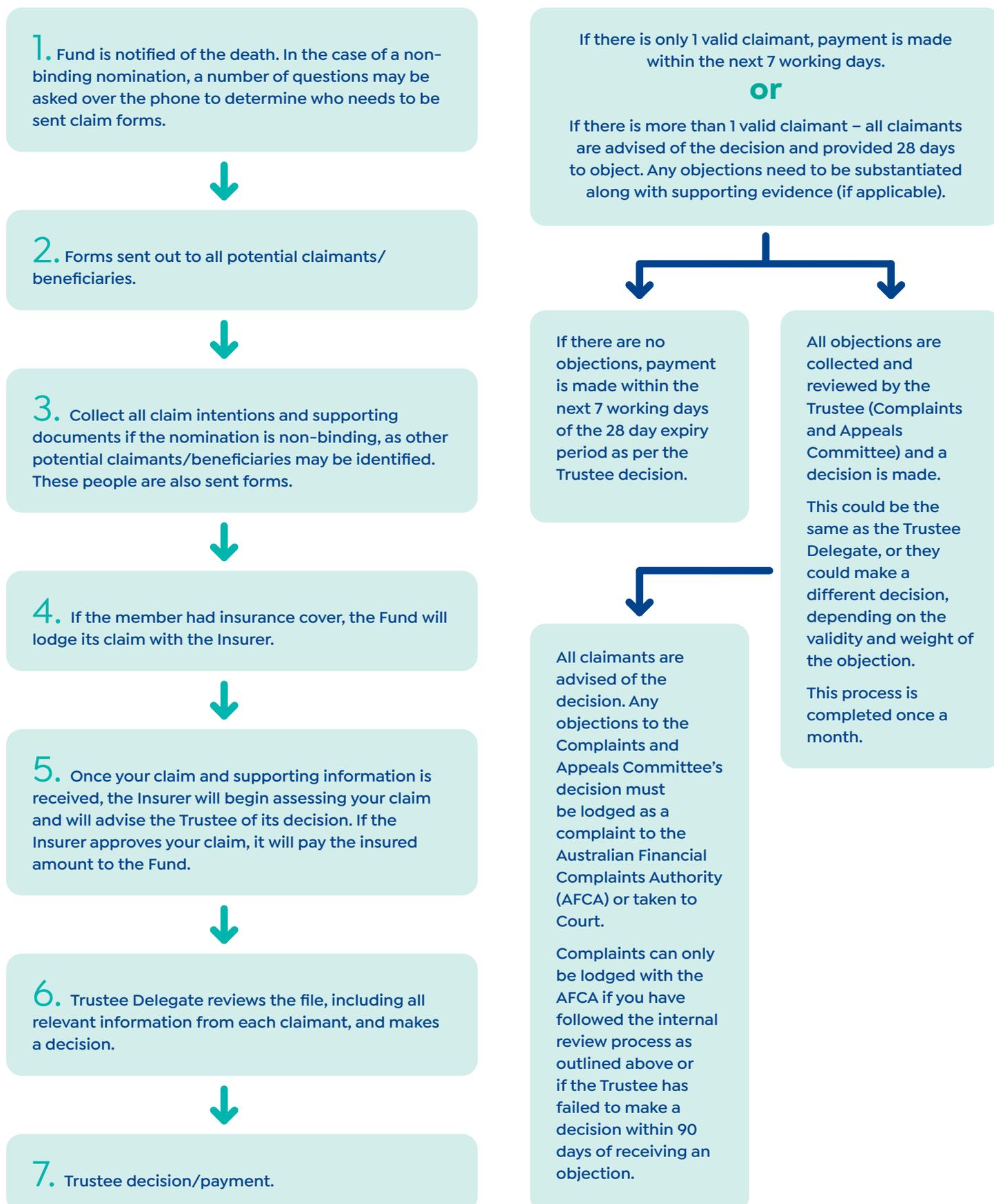
Generally, the LPR is the person(s) nominated in the member's will as the executor(s) or if the member did not have a valid will, the administrator of their estate (the administrator is the person(s) granted letters of administration by the Supreme Court).

## What if I was a nominated beneficiary? Will I receive the benefit?

A nomination can be binding or non-binding. If a valid binding nomination was in place, and those nominated are found by the Trustee to meet the criteria outlined under the heading 'Who will be paid a death benefit?' above, the Trustee must pay the benefit as per the nomination.

If the nomination was non-binding, you can only be **considered** for payment if you meet the points under the heading 'Who will be paid a death benefit?'. This is because the Trustee is legally responsible for deciding who receives a death benefit.

# What is the process of claiming a death benefit?



## How long does the process take?

The length of the process will depend on how long it takes all claimants to return their documents, the time it takes us to process these and if anyone objects to the way the Trustee proposes to pay the benefit.

## What if I need access to money now?

If the member held death insurance cover, an immediate part payment of a deceased member's death benefit may be made to a surviving dependant or a legal personal representative to help meet immediate costs arising from the member's death.

Only one person can claim an immediate part payment of the death benefit and a limit of \$3,000 applies.

This amount is then deducted from the recipient's final death benefit payment.

The Trustee reserves the right to decline any application for an immediate part payment.

## Treatment of insurance claim proceeds in your account

If the insurer accepts an insurance claim and pays a benefit, the amount paid will be invested in the same way as any other contributions that had been most recently paid into the member's account. This means the insured amount together with the account balance could increase or decrease, depending on the member's investment choice and corresponding investment returns. For more information please refer to our *Investment Guide*.

## We're here to help

If you have any queries or need help to complete the paperwork please call us on **1800 222 071** Mon-Fri 8am – 8pm (AEST/AEDT) or visit **twusuper.com.au** for any assistance.

## Is there any tax that is payable?

Death benefit paid to:	Tax rate
Dependants – spouse, child (under age 18), financial dependent or interdependent	NIL
LPR (estate)	NIL
Non-dependants	15%* of the taxed element and any untaxed element will be taxed at 30%* if their TFN is provided, otherwise it will be taxed at 45%*

\*Plus Medicare levy

**Please note:** The definition between dependants in Superannuation Industry (Supervision) Act (SIS) and the Tax Act differ. The Tax Act stipulates that tax is payable for a child over 18 unless they qualify as a financial dependant or interdependent.

If evidence proving financial dependency is not provided at the time of claiming, tax will be deducted where a payment decision is made.

For details of the terms of the Fund's insurance cover – including standard Policy exclusions and limitations – refer to the *Insurance Guide* at [twusuper.com.au/pds](http://twusuper.com.au/pds).

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