

copy to UK



Australian Government

ComSuper

Mr John von Doussa QC
President
Human Rights and Equal Opportunity Commission
GPO Box 5218
SYDNEY NSW 1042

Dear Mr von Doussa

Thank you for your letter of 26 May 2006 in which you informed me of the Human Rights and Equal Opportunity Commission's *National Inquiry into Discrimination against People in Same-Sex Relationships regarding Financial and Work-related Benefits and Entitlements*. You referred me to the discussion paper that was released on the launch of the Inquiry and highlighted section 7.5 of that paper which discusses superannuation entitlements.

ComSuper, which is the business name of the Commonwealth Superannuation Administration, an Australian Government Business Unit, provides superannuation administration services for:

- the Commonwealth Superannuation Scheme (CSS);
- the Public Sector Superannuation (PSS) Scheme;
- the Public Sector Superannuation Accumulation Plan (PSSAP);
- the Military Superannuation and Benefits Scheme (MSBS); and
- the Defence Force Retirement and Death Benefits (DFRDB) Scheme.

ComSuper administers these Schemes under delegated authority from the Boards of Trustees and the DFRDB Authority. The Boards and the Authority retain their principal powers for investment management, invalidity assessment and reconsideration of decisions made by ComSuper. The Department of Finance and Administration is responsible for the administration of the Parliamentary superannuation arrangements.

As the administrator of the main Commonwealth Schemes applying to members of the Australian Public Service and the defence forces, I am required to act in accordance with the legislation/Rules governing those Schemes and to abide by the policies and directions of the Boards and the Authority. I do not see it as my role to be providing comments, views or suggestions in relation to perceptions of discrimination contained within the legislation or Rules.

Nevertheless, I can confirm your understanding that generally, benefits payable on the death of members of the CSS, PSS, MSBS and DFRDB Schemes are payable to either the spouse of the deceased member or the child or children of the deceased member. If there is neither a spouse or child/children entitled to a death benefit, then payment is made to the legal personal representative of the deceased member.

ComSuper

Administering superannuation for members of the Australian Public Service and other participating employers and members of the Australian Defence Force

A spouse is a person of the opposite sex who was married to the deceased member or who lived in a de facto relationship with the deceased member on a bona fide domestic basis. There are generally reversionary benefits payable to a spouse if a member in receipt of a pension dies.

The PSSAP Scheme provides for benefits on the death of a member. The PSSAP Rules provide that death benefits are payable to:

- a person or persons nominated by the member in a valid binding member nomination; or, if none, to
- one or more dependants of the deceased member; or if none, to
- the legal personal representative of the deceased member; or, if none, to
- one or more individuals determined by the Board.

A dependant for the purposes of the PSSAP Scheme has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

Yours sincerely



Leo Bator
Commissioner for Superannuation and
CEO ComSuper

7 June 2006