

# Superannuation and family law

Under the Family Law Act, married, divorced and de facto\* couples have the option of splitting their super entitlements after a marriage or relationship breakdown. Information on family law matters and how they will be handled by the Trustee of CareSuper is outlined below.

## REQUESTING INFORMATION

### WHO CAN REQUEST INFORMATION

The law allows 'eligible persons' to ask for information about a member's benefits in a super fund. An eligible person includes:

- The member
- The member's spouse, or
- A person who intends to enter into a superannuation agreement with the member.

### SPOUSE

Spouse doesn't just mean husband or wife, it includes a person of the same or opposite sex with whom you lived in a genuine domestic relationship.

### HOW TO REQUEST INFORMATION

You must complete a Superannuation Information Request Form and a Superannuation Information Form (known as a Superannuation Information Kit), as well as Form 6 Declaration (to declare that you're eligible to request information). You can find these forms on the Federal Circuit and Family Court of Australia (FCFCOA) website at [fcfcoa.gov.au](http://fcfcoa.gov.au). Alternatively, speak to your lawyer. Carefully complete these forms and return them to:

**Family Law Officer**  
**CareSuper**  
**Locked Bag 20019**  
**Melbourne Victoria 3001**

### INFORMATION YOU'LL RECEIVE

We'll only provide information to you as required by law. If a Superannuation Information Request Form is received from a non-member, then by law we cannot tell the member that this request has been received.

### HOW SUPER CAN BE SPLIT

A superannuation benefit can be split as part of the property settlement but only by private agreement between the parties or by court order.

A benefit can be '**flagged**' by a flagging agreement or order, or '**split**' by a splitting agreement or court order.

'**Flagging**' means that the decision on how to split the benefit is deferred until a later date, and any benefit split cannot be paid until that later date. A flagging order or agreement will be binding on CareSuper and will restrict us from making certain payments from the member's account.

'**Splitting**' means that a decision on how to split the benefit has been made and that a portion is to be allocated to the non-member spouse (i.e. the member's spouse or former spouse) as outlined in the agreement or court order.

When an agreement or court order is first being considered, a draft must be provided to CareSuper before it is finalised. This allows us to check that everything is in place for the agreement or court order to be implemented when the final version is received. We'll review the draft agreement or court order and respond within 28 days, either confirming that the agreement or court order is valid or requesting amendments.

If we have not previously had the opportunity to comment on a draft court order, then the Court may not be able to make an order. If an agreement or court order is made without comment from us, it may mean that we're unable to administer the terms set out in the agreement or court order.

### ! WHEN AN AGREEMENT OR COURT ORDER IS MADE

When an agreement or court order is made relating to a member's benefit in CareSuper, an original certified copy must be provided to us along with any other required documents (your lawyer will advise you on what needs to be done).

\*Restrictions apply where a de facto relationship has been in existence for less than 2 years.

## IMPLEMENTING A SPLITTING AGREEMENT OR ORDER

A splitting agreement or court order instructs CareSuper on how to split a member's superannuation benefit, usually by specifying a dollar amount.

An order will take effect from the time that is specified in the court order. An agreement will take effect on the fourth business day after a certified copy is served on CareSuper.

A 'payment split' notice will be issued to the non-member spouse asking for instructions on how they would like their entitlement paid. We must receive instructions from the non-member spouse within 28 days of issuing that notice.

If instructions are not received, we'll open a new account for the non-member spouse in the Personal Plan.

The member and non-member spouse will be formally notified by CareSuper within 28 days of the split being processed.

## FLAGGING AGREEMENTS OR ORDERS

When a flagging agreement or order is made, a flag is placed on the member's account. We'll notify the parties (or the Court) if a benefit becomes payable from the member's account and will await further instructions from the parties or the Court before paying the benefit.



## SEEK PROFESSIONAL ADVICE

CareSuper is not permitted to provide you with any advice in relation to family law matters. It is strongly recommended that you seek independent legal advice before making any decisions about splitting or flagging superannuation benefits.

We also recommend you speak to a licensed or appropriately authorised financial adviser about the impact of the Family Law Act on your particular circumstances.



**WE'RE HERE TO HELP**



**1300 360 149** 8am to 8pm Monday to Friday (AET)



CareSuper, Locked Bag 20019, Melbourne VIC 3001



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