



Queensland Nurses' Union

***Default Superannuation Funds
In Modern Awards***

Draft Report

Submission to
the Productivity Commission

August 2012



Introduction

The Queensland Nurses' Union (QNU) thanks the Productivity Commission (the Commission) for providing the opportunity to comment on the draft report *Default Superannuation Funds in Modern Awards* (the report). In this submission we comment on some of the PC's recommendations and provide feedback on the proposed options for designing a selection process for assessment of superannuation funds.

About the QNU

Nurses and midwives¹ are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU - the union for nurses and midwives - is the principal health union in Queensland. The QNU covers all categories of workers that make up the nursing and midwifery workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 49,000 financial members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

Superannuation Funds in Modern Awards

The QNU welcomes the Commission's recommendation to retain superannuation in the industrial relations system, and to establish a specialist panel in Fair Work Australia (FWA) to assess the listing of default funds in awards. The report proposes options on how default funds may be assessed. Although we have reservations about the lack of detail in how it may be implemented, the QNU prefers option 3. We strongly oppose option 4 which seeks to remove the assessment process out of the industrial relations system.

Two decades ago, unions in partnership with the Labor Government established universal superannuation for Australian worker. Superannuation is a deferred wages scheme and therefore relates to the employment relationship. It must stay as an item within awards and other industrial instruments to ensure workers and their representatives are able to negotiate improvements within an enterprise bargaining context and to protect those who remain award reliant.

¹ The terms 'nurse' and 'nursing' include 'midwife' and 'midwifery'.

The QNU strongly believes that those union representatives who are trustee representatives on superannuation fund boards are undertaking a critical extension of the every day advocacy role on behalf of members. It is imperative that unions continue to advocate for members across their lifespan by promoting strategies that provide dignity in retirement. This includes the optimisation of retirement savings through superannuation and campaigning for the maintenance and enhancement of non-superannuation related factors that contribute to an adequate and secure retirement. Australians need a high quality universal health and aged care system, adequate and affordable housing the aged pension and related government provided income support payments for the elderly. Ensuring an adequate or comfortable retirement is contingent upon much more than the superannuation component, important as that is, and unions play a key role in achieving dignity in retirement via lobbying and campaigning activities.

The report confirms that the investment returns of not-for-profit default industry funds have exceeded those of retail funds. The report states that ‘current default superannuation arrangements have delivered stability and above-average investment returns. Over the eight years to 2011, default funds in modern awards averaged an after-tax investment rate of return of 6.4 per cent, compared with 5.8 per cent for all funds’ (Productivity Commission, 2012, p. 8).

Not-for-profit industry funds must remain the foundation of modern awards. The primary focus for assessing the performance of default superannuation funds in modern awards should be on ‘net returns’ and not ‘net investment returns’ as the latter does not take into account the fees and charges that the investment product deducts before it returns a net investment to the members’ account. Superannuation funds named in modern awards must serve workers, not commercial interests.

We believe that the existing arrangements operate in the best interests of the large number of employees to whom the superannuation provisions in a modern award apply, although the ‘one size fits all’ approach does not sit easily in some industries with many areas to cover. Most of the funds are not-for-profit so they charge lower fees and deliver higher net returns to members. The Commission has highlighted the relative performance of industry funds and found that default funds provide stability and their investment returns exceed those of non-default funds. This is particularly important for employees to whom the superannuation provisions in modern awards apply. The default fund nominated in an award should be geared towards high returns for members, not to serve the interests of those operating within the banking and investment sector. We welcome transparency and due process in this system.

We question here the use of the term ‘default’ which implies *one* fallback fund rather than 5-10. We suggest that the Commission could consider a more appropriate term such as ‘approved or ‘allowable’ fund. We also seek clarification on the need to continue allowing Exempt Public Sector Funds in light of the focus now placed on choice of funds. We suggest the Commission may need to review these arrangements.

Options for designing a selection process for assessment of superannuation funds.

Given the limitations of the current process for assessment of superannuation funds, the Commission considers that the selection process itself needs to be reformed. The report contains a number of principles for designing a selection process including members' interests, contestability, transparency, procedural fairness, minimum regulatory burden and stability. In addition to *MySuper*-compliance the report lists additional criteria that should be taken into account when selecting funds including investment returns, fee levels, the likelihood of 'flipping', the suitability of the insurance offering, and the quality of intra-fund advice.

The Commission has identified and assessed four options that it considers are representative of the views put to it by participants and that cover the feasible range of alternatives. The Commission has specifically asked for comments on the relative merits of options 3 and 4.

We give qualified support to option 3, however further details are required, particularly in regards to the relationship with the Australian Prudential Regulation Authority (APRA) the superannuation regulator. The APRA role could be expanded rather than create any new bodies. A new panel of corporate governance experts and relevant regulators should not be necessary on an ongoing basis. A panel could be convened to develop guidelines on board governance for APRA to incorporate in the regular assessment of funds. APRA do these assessments and can confirm to FWA that the funds meet the requirements.

Although there are elements of option 3 that offer a more transparent industrial process that enables FWA to become the full decision maker with the assistance of an expert panel, we believe that FWA should only take into account the legitimate interests of employers and employees. We oppose extending the process to allow those representing commercial interests to be involved. Neither should the selection of the fund be in the interests of the employer where they may receive inducements from the institution they select. We oppose the ability of employers to opt out of arrangements.

Therefore the QNU will *not* support any arrangement that enables:

- commercial involvement to influence the decision making; or
- employers to unilaterally opt-out of the award system on the matter of superannuation or any other award provision.

The Commission has noted that many consumers do not have the interest, information or expertise required to make informed choices about their superannuation. These consumers rely heavily on the default superannuation system to act on their behalf. Clearly a significant proportion of workers find limited relevance in neo-liberal notions of competition and choice of funds. This is especially the case in the wake of the Global Financial Crisis (GFC) where the retirement savings of workers have taken such a significant setback because of the failings of an inadequately restrained and poorly regulated market. Safety, governance, proper alignment of interests and adequate risk management are more important to our members than notions such as contestability.

Indeed, some of the principles outlined in recommendation 7.1 for the selection and ongoing assessment for listing as default funds in modern awards may be contradictory. For example, promoting contestability could lead to increasing regulatory burden and instability of the broader superannuation system. Which of these principles would have primacy? Although the concept of establishing these principles is supported by the QNU we believe more thought needs to be given to those outlined in recommendation 7.1, including whether there is a need for additional principles to be included.

Conclusion

Employers and workers fund superannuation schemes. It is an industrial issue involving deferred-wages. Therefore market forces and business interests should not drive the selection of default options, rather the selection of default funds must be subject either to award determination or enterprise bargaining to protect and advance the interests of those for whom the scheme operates.

References

Productivity Commission (2012) *Default superannuation funds in modern awards*, Draft Inquiry Report, Canberra.