FOI 3547
Document 1

s 22 [redacted]

**From:** John Pauley s 47F [redacted].com.au>
**Sent:** Wednesday, July 5, 2023 4:13 PM
**To:** Jones, Stephen (MP) <Stephen.Jones.MP@aph.gov.au>
**Cc:** s 47F [redacted]
**Subject:** Taxation of Defined Benefit Pensions Deemed to Have an Underlying Asset Value in Excess of $3 million

ACPSRO
Australian Council of Public Sector
Retiree Organisations

Dear Mr Jones,

Please find attached a reply to your correspondence to me of 7 June 2023. For your information I have attached a copy of your letter.

I trust you will reconsider your position and undertake to consult directly with those affected by the proposed changes as the detail of those changes are developed. Such a change will bring some fairness into the consultative process.

Regards

John Pauley
President
ACPSRO

FOI 3547
Document 1a

# ACPSRO
Australian Council of Public Sector Retiree Organisations

The Hon Stephen Jones MP
Minister for Financial Services
Parliament House
Canberra ACT 2600

5 August 2023

Dear Mr Jones

Thank you for your correspondence of 7 June 2023 (attached) in response to my correspondence to the Treasurer regarding the imposition of additional taxation upon those Defined Benefit retirees in receipt of a pension derived from an asset deemed to be in excess of $3 million.

I note from your correspondence that you do not wish to consult any further with either those directly affected by this proposed change to the taxation of defined benefit incomes, or those representing those affected individuals. Rather your approach is to "engage with representatives of state and territory superannuation schemes across the country".

I had separately written to Ms Jenny Cosgrove, the Director of the Office of the Tasmanian Superannuation Commission, the organization which operates as trustee of my particular defined benefit scheme. In her response to me, Ms Cosgrove stated "This topic is a Commonwealth Government policy responsibility that the Office of the Superannuation Commission is not in a position to influence".

The consultation previously undertaken by your Department, and mentioned in your letter, provided no specific details on how it was proposed to further tax these identified defined benefit income streams. The lack of detail made it extremely difficult to comment specifically on the proposal and how it may impact on not just the targeted group, but also on defined benefit retirees more generally. What little information which has been provided to date indicates that you are likely to apply double taxation to these defined benefit retirees. Whether this is by design, or simply consequential to the proposals so far presented, is not clear.

Our recent experience has been that measures aimed at one group of defined benefit retirees have ended up having significant negative impacts on other retirees who were not part of the targeted group.

I am, therefore, disappointed that your action continues the process of introducing changes to superannuation without effective consultation with those directly affected, particularly those who will have no opportunity to take any action in response to the proposed changes. Unlike those retirees with accumulation schemes in excess of $3 million who are able to adjust their portfolio as tax rules change, defined benefit retirees have no opportunity to respond to changes in tax laws.

There are numerous instances where there have been significant unintended consequences and where government has resisted engaging with defined benefit retirees. These consequences often impact on those retirees most in need. Examples where better consultation with defined benefit retirees would have improved outcomes include:

- your government's current intent of legislating away the rights of those who have been medically retired from our defence forces with a disability;
- the introduction of onerous restrictions on those who are in receipt of a defined benefit pension and who may be seeking access to either a full or part age pension, while at the same time introducing very generous provisions for retirees purchasing a lifetime income stream who also seek access to the age pension;
- assessing the transfer balance cap for defined benefit retirees in a manner which fails to, even minimally, take account of the actuarial reality of the decision imposed;
- the approach taken in regard to how service prior to 1 July 1988 is considered by the tax office when assessing defined benefit incomes; and
- the ongoing reluctance to reconsider the indexation of defined benefit incomes in light of changes made to the indexation of the age pension several years ago.

I request that you reconsider your position relating to who will be consulted in relation to this change as the proposal is firmed up. The information provided to date indicates a misunderstanding of the taxation currently applied to defined benefit pensions. Given this misunderstanding it is appropriate that those who are directly affected by such change, and those representing this group, be consulted. This consultation could take place contemporaneously with the consultation you have proposed for state and territory superannuation schemes and use the same materials.

Such a change in your approach is clearly appropriate.

It would also be in the interests of due process, and fairness, for those impacted by this change being provided with the opportunity to comment upon that impact directly.

Regards

John Pauley
President
ACPSRO

**THE HON STEPHEN JONES MP**
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC23-005002

Mr John Pauley
President
Australian Council of Public Sector Retiree Organisations
s 47F [redacted]

07 JUN 2023

John

Dear ~~Mr~~ Pauley

Thank you for your correspondence to the Treasurer concerning the Australian Government's recently announced measure, 'Better targeted superannuation concessions'. Your correspondence has been referred to me as the matter falls within my portfolio responsibilities.

I appreciate the time you have taken to engage in this policy discussion and for sharing the views of the Australian Council of Public Sector Retiree Organisations.

The Government is committed to improving the equity and sustainability of the superannuation system, to ensure Australians can enjoy a dignified retirement. This is why the Government has announced changes to the superannuation earnings tax concessions for individuals whose total superannuation balance exceeds $3 million.

As outlined in your letter, there is a considerable amount of complexity when it comes to defined benefit schemes, particularly in regard to the valuation and taxation of benefits. Given this complexity, the Government is undertaking targeted consultation with the superannuation industry and relevant stakeholders on key components of the policy. The intent is to ensure that defined benefit schemes receive commensurate tax treatment.

Treasury has a dedicated workstream to consider the application of this policy for defined benefit superannuation interests and are engaging with representatives from state and territory superannuation schemes across the country.

The Government undertook public consultation on this measure and further details can be found on the Treasury website: treasury.gov.au/consultation/c2023-373973.

Thank you again for your letter.

Yours sincerely

The Hon Stephen Jones MP

Parliament House Canberra ACT 2600 Australia
Telephone: (02) 6277 7230

s 22

**From:** John Pauley s 47F
**Sent:** Tuesday, 14 March 2023 10:05 AM
**To:** Chalmers, Jim (MP) <Jim.Chalmers.MP@aph.gov.au>
**Cc:** s 47F
**Subject:** Taxation of Defined Benefit Pensions

14 March 2023

Dr Jim Chalmers
Treasurer
Parliament House
Canberra 2601
ACT

Dear Dr Chalmers,

The Australian Council of Public Sector Retiree Organisations (ACPSRO) has been examining the wider implications of Australia's superannuation arrangements for many years. We congratulate you for bringing the issue of the underlying and emerging cost of those arrangements to public attention. This is something we have highlighted in our position paper which we provided to you prior to the last election. We have attached a copy of that paper for your information.

We are, however, dismayed that as part of your investigations into superannuation you are considering "consulting on the taxation of defined benefit pensions" and that you may not fully appreciate the position of, or the complexity of, defined benefit pension recipients.

We are also unsure as to what you mean when you mention the taxation of defined benefit pensions. Some defined benefit pensions are subject to tax, others which are fully funded are not, and there are also schemes which fall in between these. So while there has been much written in the media in relation to the underlying value of defined benefit pensions and seeking that the proposed $3 million cap for the 15% concessional tax rate also be applied to such pensions, developing arrangements which do not create unintended consequences will be extremely difficult.

Unlike retirees who have an account based pension, and also those who have significant sums remaining in their accumulation account, defined benefit pensioners have no ability to adjust their situation as taxation laws are changed. It has been our experience that changes can often harshly impact on those defined benefit pensioners on lower incomes and miss their intended target. Furthermore, even when such harsh impacts have been clearly highlighted to government we have experienced a total reluctance for any remedies to be put in place.

As you would be well aware, defined benefit pensions which are funded as they fall due are already taxed like other income. For those defined benefit pensions which are fully funded, such as the Victorian scheme, the benefit available to members has already been adjusted downwards to take account of tax treatment applied by the ATO to these schemes. Therefore the tax treatment of defined benefit pensions is quite different to that of both account based pensions and lifetime income streams which are currently tax exempt.

Defined benefit pensions are also subject to two death taxes. Firstly, upon the death of the initial member, the amount available to their spouse is reduced by 33%. This is in stark contrast to funds held in an account based pensions where there are no death taxes levied and the full balance of the fund is passed to the spouse. Secondly, upon the death of the spouse there is no residual balance in the fund, an effective 100% death tax. Again, in stark contrast, the balance of account based pensions becomes part of a person's estate. As you would be well aware and have publicised widely, superannuation has been used by many as a means for tax effective estate planning, and not for retirement planning. Defined benefit pensions clearly cannot be used for estate management purposes.

Furthermore, despite many defined benefit retirees making contributions on an after tax basis into their fund, when assessing eligibility for a part age pension the maximum offset which can be applied is 10%. In contrast, a retiree taking out a lifetime income stream is able to offset a flat 40% of that income stream, despite all contributions being made on a concessional tax basis.

Finally, the manner in which the transfer balance cap is applied to a defined benefit pension fails to adequately consider both the actuarially determined value of that pension, nor its taxation, both during the accumulation phase and while in pension mode. This failure results in defined benefit pensions already being more harshly treated under the current superannuation legislation and introducing changes to the transfer balance cap would further complicate an already complex area. ACPSRO has previously made comment in relation to the transfer balance cap and those comments are perhaps more relevant in light of your recent comments. A copy of that submission is attached for your information.

It is clear that defined benefit pensions are already subject to taxation in a number of ways that account based pensions and lifetime income streams are not. There are numerous other areas where defined benefit pensions receive inferior treatment by the tax and social security systems in Australia.

ACPSRO would be pleased to meet with you and discuss in more detail these issues, and why you consider there is any reason to change the tax treatment of defined benefit pensions. What recent commentary also misses is that there are around one million households in Australia where the retirees are either fully or partially dependent upon a defined benefit pension in their retirement. The vast majority of these retirees performed essential front line government services, such as members of the ADF, teaching, nursing, emergency services and policing and supporting the essential administrative functions of government.

Unfortunately, these retired public servants are often seen as "fat cats", yet the average pension payment under the Commonwealth defined benefit scheme is only $46,700, with the median payment being somewhat below this figure. Defined benefit pensions offered by state governments are even lower than this. However, in today's retirement space the benefits available to those receiving an account based pension are far more generous. Unlike our defined benefit pensions which are funded explicitly, the funding of account based pensions and lifetime income streams is hidden behind a complex array of tax concessions which you have clearly identified will soon cost more than the cost of the age pension, and which the Grattan Institute has determined most of the benefit goes to the wealthiest section of our community.

Finally, it is interesting to note that with the balance of super funds expected to eventually reach $7 to $10 trillion, the cost to the budget of these hidden expenses is expected to grow exponentially In contrast, defined benefit pensioners are a declining cohort as most schemes have been closed for nearly 30 years.

I look forward to the opportunity to meet with you to further discuss these important matters that impact on over 1 million Australian households.

Yours sincerely

John Pauley
President
Australian Council of Public Sector Retiree Organisations

e: s 47F

m: s 47F

**From:** s 47E(d)
**To:** s 47F
**Subject:** Correspondence from The Hon Stephen Jones MP - MC23-005002 [SEC=OFFICIAL]
**Date:** Wednesday, 7 June 2023 2:13:00 PM
**Attachments:** image001.png
Ref MC23-005002 - MO Signed response.pdf

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**OFFICIALOFFICIAL**

*Dear Mr Pauley,*

*On behalf of the Assistant Treasurer and Minister for Financial Services, please refer to the attached correspondence.*

*Please note, a hard copy of this correspondence will not follow.*

Kind Regards,

Ministerial Correspondence Team
Department of the Treasury
Langton Crescent  PARKES  ACT  2600
(02) 6263 2111

Australian Government
The Treasury

FOI 3547
Document 3a

# THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC23-005002

Mr John Pauley
President
Australian Council of Public Sector Retiree Organisations

07 JUN 2023

s 47F

John

Dear Mr Pauley

Thank you for your correspondence to the Treasurer concerning the Australian Government's recently announced measure, 'Better targeted superannuation concessions'. Your correspondence has been referred to me as the matter falls within my portfolio responsibilities.

I appreciate the time you have taken to engage in this policy discussion and for sharing the views of the Australian Council of Public Sector Retiree Organisations.

The Government is committed to improving the equity and sustainability of the superannuation system, to ensure Australians can enjoy a dignified retirement. This is why the Government has announced changes to the superannuation earnings tax concessions for individuals whose total superannuation balance exceeds $3 million.

As outlined in your letter, there is a considerable amount of complexity when it comes to defined benefit schemes, particularly in regard to the valuation and taxation of benefits. Given this complexity, the Government is undertaking targeted consultation with the superannuation industry and relevant stakeholders on key components of the policy. The intent is to ensure that defined benefit schemes receive commensurate tax treatment.

Treasury has a dedicated workstream to consider the application of this policy for defined benefit superannuation interests and are engaging with representatives from state and territory superannuation schemes across the country.

The Government undertook public consultation on this measure and further details can be found on the Treasury website: treasury.gov.au/consultation/c2023-373973.

Thank you again for your letter.

Yours sincerely

The Hon Stephen Jones MP

Parliament House Canberra ACT 2600 Australia
Telephone: (02) 6277 7230

FOI 3547
Document 4

Australian Government
The Treasury

Ref: MC23-013255

Mr John Pauley
President
Australian Council of Public Sector Retiree Organisations

s 47F

Dear Mr Pauley

Thank you for your correspondence of 5 July 2023 to the Assistant Treasurer and Minister for Financial Services, concerning the taxation of defined benefit pensions deemed to have an underlying asset value in excess of $3 million.

We appreciate your engagement on behalf of the Australian Council of Public Sector Retiree Organisations (ACPSRO) on the development of the *Better Targeted Superannuation Concessions* measure.

As the Assistant Treasurer outlined in his correspondence of 7 June 2023, Treasury has a dedicated workstream to consider the application of this policy for defined benefit superannuation interests. The Australian Government is committed to improving the equity and sustainability of the superannuation system, to ensure Australians can enjoy a dignified retirement.

It is the Government's intent that the tax on excess balance earnings will provide a broadly commensurate treatment for defined benefit schemes. Interests in defined benefit schemes will be appropriately valued and will have earnings taxed under this measure in a similar way to other interests.

The Government intends to undertake further detailed consultation on draft legislation in the second half of 2023. I encourage ACPSRO to participate in this consultation process for which details will be provided by the Treasury, particularly regarding the views of defined benefit scheme members.

Once again, thank you for taking the time to write.

Yours sincerely

Adam Hawkins
Assistant Secretary
Retirement, Advice and Investment Division
25/08/2023

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