

Nominating a beneficiary

...who gets yours?

Don't let someone else decide who gets your super and insurance after you have gone

If you are over 18, having a Nomination of Beneficiary (NoB), Will and Enduring Power of Attorney (EPA) is an important common sense part of having your affairs in order.

Types of nominations

Non binding – sometimes called preferred or discretionary, this is where the superannuation trustee will consider your nomination, but has the final say in who gets your money in what proportion. Generally, no witness is required. A new non binding nomination will not override a previous binding nomination. You can change this nomination as often as you like and it doesn't have to be renewed.

Binding – the super trustee has no discretion and must pay in accordance with your wishes as long as the nomination is valid. The nomination usually has to be renewed at least every three years and normally the super fund will let you know when it is due. Two witnesses who are over 18 years and who are not beneficiaries are required. The changing circumstances of a beneficiary can make the nomination invalid, eg death of a beneficiary, or a beneficiary no longer being dependent are some examples. Invalid nominations typically revert back to a Non Binding NoB.

No nomination – the super trustee will decide which of your dependents and/or legal personal representative they will pay and in what proportion.

Why make a nomination?

Certainty, control... common sense really, when you think about it. You know best who deserves it or what's fair. It's your wishes being fulfilled once you've gone.

It's an important planning tool for all families – traditional, blended, modern or single parents and just as important for singles – young or old.

A valid nomination clearly directs where the money is to go - a partner, a dependent or a combination.

The real question is "why wouldn't you make a nomination?"

Who can I nominate?

The super trustee is bound by superannuation laws so you need to check what the current laws are. Generally though, the trustee can pay to..

- your spouse, which includes de facto or same sex partner;
- your child/children of any age including adopted, step, ex nuptial or spouses as defined in the Family Law Act of 1975 (taxation may apply to non dependent children);
- a person with whom you have an interdependency relationship;
- a person who is wholly or partially financially dependent on you at the time of your death;
- your Legal Personal Representative.

Under superannuation law you cannot leave your benefits to a parent, brother, sister, friend, uncle, aunt or Felix the cat. Typically, super funds don't tell you if your nomination is not valid.

You can change your NoB as often as you wish.

How can I nominate?

You can download a form from your super fund website or call them and request one. You will need to:

- read the instructions carefully; and
- send the signed original back to the super fund. This is a legal document so generally scanned or faxed copies are not accepted.

One of the great benefits of being in the staff super fund is having access to advice and assistance from the super specialists at Finergy Solutions, our super fund advisers.

For help with your NOB super or any super matter, just email or call Finergy.

Think about this:

- if you don't make a nomination or if you nominate your Legal Personal Representative, it's your Will that will most likely dictate who gets how much of your super. Your Will deals with all your other assets too, such as - car, home, investments, cash, golf clubs and jewellery;
- a Will doesn't just deal with your assets; it can deal with your wishes also - who looks after the kids and how. How is the money to be handled for that beneficiary who is not responsible enough, doesn't have the capacity, or may even be delinquent? How are the proceeds best treated and structured for tax purposes?
- if you want to leave your super to a non dependent child, they could pay between 16.5% and 31.5% tax. Leaving your super to a spouse or dependent can avoid this tax and you could leave other assets like property or cash to the non dependent children. That's potentially a huge tax saving from some proper planning;
- you can have as many valid beneficiaries as you like;
- you generally have to leave a beneficiary a percentage (%) not a dollar (\$) amount. All the nominated percentage must total 100%;
- check your super account's annual statement or call the super fund to see if/who you have nominated; and
- there is no substitute for quality professional advice. Talk to your financial and legal advisers.

Case study – no nomination

Bailey was tragically lost in a car accident at age 19. Bailey's super account was worth \$10,000 and had \$200,000 of life insurance attached.

Bailey didn't have a NoB or a Will.

The super fund trustee determined that the next of kin, Mum and Dad should equally share the \$210,000. However, Bailey's father left the family before Bailey was born and had never met or made contact with Bailey.

It was never Bailey's intention that his unknown father should inherit. A NoB could have ensured this.

Case study – binding nomination

Anne's husband passed away during the Global Financial Crisis (GFC). He had made a Non Binding NoB sharing his super between Anne and the three adult children. The NoB wasn't filled in correctly and one of the kids was disputing their share. This led to an eight month delay in the super trustees paying out the benefits. During that time the insurer paid the insurance proceeds to the trustee who invested them in accordance with how Anne's husband's super account had been invested. This is usual practice.

Unfortunately, the investment markets continued to tumble during this time and the payout was \$70,000 less than it could have been. A valid Binding Nomination would have meant the trustees would have had to pay out as instructed, leaving the decision to the beneficiaries as to whether they wanted the money invested in the market or not.

With some careful planning and advice, the children could have been left their share from the non super assets, meaning they could have avoided the super death tax. Proper planning could have avoided tax and investment losses.



Please contact Finergy Solutions with any questions:

enquiry@finergy.com.au
or **1300 071 540**

This flyer is published by Finergy Solutions Pty Ltd. Any advice in this communication has been prepared without taking account of your objectives, financial situation or needs. Because of this you should, before acting on any advice in this communication, consider whether it is appropriate to your objectives, financial situation and needs. Finergy Solutions: ABN 40 145 328 525 AFSL 377659.