



President: Stuart McMillan

General Secretary: Colleen Geyer

05:BB:JB

February 17 2016

Dear

We are writing to you to give you an update on advocacy activity regarding the consequences to some of you from the passing of the Social Services Legislation Amendment, and to provide you with some information regarding issues that members have raised in relation to this.

First of all, we recognise and acknowledge the stress and frustration that those members who have been effected by changes have felt over the past months. We also apologise to you for the late notification of the possible consequences of changed circumstances for members of the Beneficiary Fund as a result of the legislation change, following the November 2015 meeting of the Assembly Standing Committee.

I have discussed this with the President of the Uniting Church, Stuart McMillan, who is also concerned about the impacts of the legislation on members, and the stress and confusion it has caused.

Some members have made personal representation to local Members of Parliament regarding their situations. We too have been working in this arena, providing examples of consequences for members. Last week in Question Time, Minister Porter indicated that there could be a possibility of exclusion for those inadvertently effected by the new legislation. The Assembly General Secretary has written to the Minister to seek clarification.

The matters raised by members relate to two core issues:

- (a) The changes to the structure and Trustee of the Beneficiary Fund; and
- (b) The passing of the Social Services Legislation Amendment (Defined Benefit Income Streams) Act 2015 and associated matters.

We would like to emphasise that these two matters are quite distinct and therefore need to be addressed separately.

### **Change of Trustee for the Beneficiary Fund**

Effective 30 June 2015 the then Uniting Church in Australia Beneficiary Fund was wound up and transferred to the Mercer Super Trust. On 1 July 2015 the Uniting Church in Australia Beneficiary Fund became a sub plan of the Mercer Super Trust. Mercer Superannuation Australia Ltd ('MSAL') is the trustee of the Mercer Super Trust.

There is a formal contract – Participation Agreement – between the Assembly and MSAL. The Participation Agreement includes an Annexure which is a virtual replica of the Rules of the Beneficiary Fund which were used by the previous trustee. Like the previous Rules, the Annexure cannot be amended without the consent of the Assembly.

It was the Rules and now the Annexure which specifies all the terms and conditions for contributions to and benefits from, the Beneficiary Fund. All of the defined benefits which existed prior to the change continue to exist with the new trustee. The Assembly has appointed a Policy Committee which meets regularly with the new Trustee to receive reports about performance of the Fund and member administration.

The decision to change the Trustee was not taken lightly. The then Trustee Board undertook an extensive review including the long term position of the Fund and of the continuing escalation of governance and compliance requirements across the superannuation industry. Several workshops were conducted which were attended by the Assembly General Secretary and which included presentations by the actuary and other industry service providers. Regular reports were provided to the Assembly with appropriate sign-off at progressive stages.

It is true that this change was made without the consent of the members. Under the Superannuation Industry (Supervision) Act the process is designated as a 'Successor Fund Transfer' and the Act specifies certain conditions which must be independently certified in order for it to proceed. These requirements have been met and the Trustee Board maintained regular contact with the industry regulator APRA throughout the process.

The Assembly, through the Assembly Standing Committee, is therefore satisfied no member of the Beneficiary Fund was disadvantaged as a result of the change in Trustee and that all benefits continue to be calculated and distributed in the same way as the previous Trustee.

### **Social Services Legislation Amendment (Defined Benefit Income Streams) Act 2015**

This is a very small item of legislation which was introduced into the Parliament on 23 June 2015, was passed by both the House of Representatives and the Senate in two days and received royal assent on 30 June 2015. It had cross-party support and to our knowledge there was no consultation, awareness or publicity. The primary justification for its introduction is to overcome an apparent anomaly that was created in 2007 when amendments were made to the taxation arrangements for contributions to superannuation funds.

The first indication of its existence was early October when a number of retired ministers enquired about correspondence they had received from Centrelink which gave notice of the introduction of the 10% cap to be implemented from 1 January 2016 and advised that this may have an impact on their income support payments (aged pensions). Subsequent investigation identified the potential impact and the matter was raised at the meetings of the Policy and Employer Committees on 30 October 2015.

It was acknowledged that, as the legislation did not impact on the Beneficiary Fund or pensions paid by the Fund, it was not a matter for the Trustee but for the Uniting Church, as the sponsor of the Fund, to determine any action it wished to undertake. This resulted in the report to the Assembly Standing Committee meeting on 19 November 2015. Actions taken as a consequence of that meeting are now on public record.

This action is on-going and it needs to be from both the Church and individual pension recipients. Since all sides of politics supported the legislation, complaints to local MPs, irrespective of which party they belong to, is warranted. The Uniting Church does have a pastoral interest in its active and retired ministers and spouses and is using its best endeavours to redress the current situation with the Government.

Through its prior denominations, the Uniting Church has sought to provide support for its ordained clergy in retirement for many decades. This history gives testament to the Church's covenant with Ministers when they are ordained for life.

Members of the Beneficiary Fund who receive a Fund pension and an Aged Pension represented about 2 % of the total number of people likely to be affected by the new legislation. It is now clear that some of the features of the Beneficiary Fund are quite

different from the model of defined benefits which apply in most government based defined benefit funds and which make up 95% of the people affected by this legislation.

Our task now is to demonstrate that by overlooking the unique features of the structure of the Beneficiary Fund, this recent legislation will lead to retired ministers and their spouses being worse off than they were in 2007.

We are committed to continue our advocacy on this matter.

Please be assured that we will seek to keep our members informed of any further information or outcomes from our discussions and advocacy.

Yours sincerely,

A handwritten signature in black ink, appearing to read "B. Binnie", enclosed in a thin black rectangular border.

Bruce Binnie  
Chair  
Employer Committee