



# Superannuation and Disability Claims



*Winning claims since 1952*

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If you suffer from an injury or illness that affects your ability to work you may be able to claim on insurance. All working Australians will have a superannuation fund and most superannuation funds come with insurance to provide benefits in the case of injury or illness.

The cause of your injury or illness does not matter. Provided you had insurance coverage in place at the applicable time then you will be able to claim.

If you have more than one superannuation fund you may be able to claim on more than one policy.

**Turner Freeman Lawyers provide a free initial consultation with a senior lawyer and at no obligation.**



## ✓ Our Difference

At Turner Freeman Lawyers Queensland, we pride ourselves on providing a comprehensive range of care that goes beyond simply offering legal representation. When you are in a difficult situation and need legal help, Turner Freeman is here to lighten the load so that you don't have to worry about the legal side of things.

### Home and hospital visits

If you are unable to come to us, we will gladly come to you for your obligation-free case assessment.

### Free consultation

Your initial consultation is free, and you are not obliged to retain us.

### No Win – No Fee

You will never be out of pocket. If we act *No Win – No Fee* in your case we will not request payment of any kind until we have won your case. And if we don't win, you don't have to pay a cent to us.

Unlike other firms we will also pay any expenses in running your claim.

### Partners, not Paralegals

With Turner Freeman, you can be sure you are only getting the finest legal representation from expert lawyers. While we may enlist the assistance of junior staff from time to time, ultimately a senior, experienced lawyer will always be responsible for handling your case. After all, we want the best chance of success!

### Realistic time frames

You will be kept informed of your case's progress at all times. We will endeavour to give you as much information as possible on your case, your prospects, your options, and your expected outcome.

### Support and guidance

We are proudly partnered with a number of non-profit support organisations. Being able to guide our clients towards a helping hand is as important to us as helping them claim their entitlements.

We are sure you would agree that quality of life is the most important aspect of any legal proceeding, which is why we are so strongly committed to offering our clients access to our network of support organisations.



Whether you work in an office or down a mine, it is an unfortunate fact of life that accidents happen. If you have **physical or psychological injuries or are seriously ill**, you may be entitled to insurance benefits.

As specialist personal injury lawyers, Turner Freeman Lawyers are experts in handling disability insurance claims for all types of injury or illness including:

- Spinal, head, eye and soft tissue injury
- Fracture
- Respiratory Illness
- Shock, Anxiety and Depression
- Cancers
- Heart disease
- Diabetes

## ✓ Superannuation and Disability Insurance Claims Q&A

### **I have suffered an injury and am unable to work. Can I claim?**

When you are injured or ill and unable to work or enjoy your usual daily activities, you may have insurance coverage that you are not aware of.

This can be in the form of total and permanent disability (TPD) insurance attached to your superannuation, mortgage or other loan insurance, income protection insurance or other occupational specific cover.

- Benefits are available in addition to any other compensation you might be entitled to like WorkCover payments.
- Unlike a compensation claim you do not need to prove that the injury or illness was caused by someone else or that it is work related.
- The injury or illness just needs to be significant and has affected your ability to earn an income, or has seriously impeded your ability to engage in your daily activities.

### **What can I claim?**

There are broad areas of insurance coverage that may assist when you become injured or ill.

They are:

- Total and Permanent Disability (TPD)
- Income Protection or Salary Continuance
- Terminal Illness
- Accident and Trauma

For some specific occupations, including Commonwealth or State public servants and members of the military, there is also a range of additional benefits available.

If you are injured while travelling you may have coverage through travel insurance. If you have a mortgage or other loan you may also have loan insurance.

### **Do I need a lawyer to help me with my claim?**

If you are concerned about your working future due to your injury, and if you wish to find out if you are covered, the short answer is yes. In reality and from our experience seeing firsthand the bad outcomes that people achieve without lawyers, the answer is absolutely yes. We recommend that you should see specialist insurance claim lawyers like Turner Freeman Lawyers.

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...when claiming for total and permanent disablement you do not need to prove that the injury or illness was caused by someone else or that it is work related. You just need to show that the injury or illness is significant and has affected your ability to earn an income, or has seriously impeded your ability to engage in your daily activities.

A good insurance and TPD lawyer will focus on whether he or she can justify their involvement in the case so that you can be confident that the benefits of using a specialist disability insurance lawyer will outweigh or far outweigh the legal costs.

If you have a very serious injury or illness which clearly precludes you from working and will do so forever, you may not or probably don't need to see a lawyer. However, your first consultation with us is free so we advise all our clients and potential clients to seek advice at the earliest possible time to remove any doubt or worry about your rights or where you stand.

### **What is TPD?**

Total and Permanent Disablement or TPD is a commonly misunderstood term. Most people think it means you need to be in a wheelchair or catastrophically injured to claim. Most people are familiar with TPD as meaning the loss of arms and legs, the inability to walk, talk, eat or dress oneself or blindness.

However TPD also includes the inability to work within your education training and experience. That does not mean you can never work again. What it means is you are seriously injured or ill to the extent that you cannot return to any work that you are reasonably qualified to do at the time you stop work. If you could change jobs but only after significant retraining then you may still be TPD.

If you can only return to part time employment or have to work under significant medical restrictions then you may still be TPD.

It pays to ask specialist lawyers like Turner Freeman who understand what TPD means to ensure you do not miss out on benefits you are entitled to claim.

### **What is Income Protection/Salary Continuance**

If you temporarily cannot work because of a disability, injury or illness, you may be able to claim Income Protection benefits. Salary continuance or income protection benefits can also provide financial support if you are unable to work. They generally cover a percentage of your wage while you are unable to work payable after a waiting period.

Generally these types of benefits will be reduced or offset against any other income support you might be receiving because of your injury or illness such as workers compensation, Centrelink benefits or other insurance payments.

### **What is Terminal Illness?**

All super funds in Australia offer benefits in the event of a loved one's death. This life insurance can be accessed early by the insured person on terminal illness grounds. If you have been diagnosed with an illness that has reduced your life expectancy to less than 2 years (in some policies this can be less than 12 months) then you may be able to claim your life insurance early.

If you were a spouse, child, legal personal representative or financially dependent on someone who has passed away, you may be entitled to receive their super contributions and connected life insurance benefits. These benefits are designed to ease the burden of financial strife at this difficult time.

### **Superannuation claims process**

Turner Freeman Lawyers make the superannuation claim process of investigating your rights, forming a plan and eventually enlisting the help of a lawyer that little bit easier.

Here is a brief outline of how the process works:

1. **Do some quick research** - It's always wise to do a little reading before embarking on anything that involves Super Funds or insurance companies.
2. **Have a free consultation** - Calling or sitting down with a legal expert is an extremely important step to take when considering making an application for early super payment or an insurance claim. They will be able to gauge where you stand, what the best course of action is, and what the likely outcome will be.
3. **Let us take care of the rest** - Once you have worked everything out with your lawyer, they will handle everything, including helping you fill out the forms and letting you know what else you may need to supply to build your claim. If there are any outstanding tasks you need to complete (e.g. attending a medical examination), these will be completed before submitting the paperwork

Once everything is submitted, all you need to do is wait. Applications can take from weeks up to several months to process depending on the complexity of the case. Knowing that everything has been handled by a highly qualified, experienced professional should give you peace of mind. Only if your claim is successful will Turner Freeman Lawyers require a fee.

## How much will I get?

This will depend on the type of insurance cover you have and how much you are insured for. This information is usually included in the fine print of your policy or statements.

## What if my claim is rejected or the insurance benefit is unfairly reduced?

There are a number of different types of disputes that may arise from a superannuation, disability or insurance claim. These may include:

- Your disability or insurance claim was rejected by the fund or insurer.
- The fund or insurer is taking too long to make a decision on your claim.
- Your employer failed to make super contribution on your behalf and therefore you were not covered.
- You received bad or negligent advice from your financial advisor or another professional.

There are a number of options available to you so that you receive your entitlements within a reasonable time.

We can help you start court proceedings so that the insurer or superannuation fund is forced to make a decision as instructed by the courts. This may also allow you to recover any interest you should have been paid as a result of the delay.

If your employer has failed to make superannuation contributions on your behalf, and you injured yourself or

became ill or sick and therefore were not covered, you may be able to claim against them for your loss in this regard.

## Time limits for lodging claims

This varies from fund to fund, and from insurer to insurer. While it is sometimes possible to lodge your application as soon as you stop working, you might alternatively have to show at least six months off work due to your circumstances. It is recommended that you seek legal help as soon as possible to ensure you are meeting all the correct requirements.

## Multiple accounts and multiple insurance policies

As long as each of your current funds or accounts are independent from the other, you should be able to claim superannuation and related insurance policies on any or all of them at the same time. We can assist you to find any lost super accounts using various 'find my super' tools to ensure you get the best result possible.

We will also investigate all accounts and you may be entitled to rollover some accounts into one to make the process of accessing your money simpler. We will refer you to a professional financial adviser if you do not have one to make sure your superannuation investment is maximised and protected. Please note we do not provide financial advice and it is prudent to seek advice from a qualified professional on financial or tax matters to do with your superannuation.

## Centrelink and WorkCover benefits

These types of claims do not usually impact on WorkCover benefits, however if you have already received WorkCover benefits then your entitlement to super insurance may be reduced as a result. In some cases you can receive both; it just depends on your policy.

Because any money received from your superannuation may count as an asset or income, payments may affect how much you receive from Centrelink in the future. You should contact your legal professional or Centrelink to find out what impact the claim will have on your benefits.

## Tax on the amount you receive

If you are withdrawing your funds before your Preservation Age (the 'lockout' age on your super policy – usually 60), you are likely to be taxed on it. There are, however, some exceptions to this rule such as in cases of terminal illness. It is a good idea to contact a finance or tax professional and go through your policy and your circumstances so you know where you stand.

## Turner Freeman Lawyers **No Win - No Fee** policy

After we have investigated your entitlement at no obligation to you, we will then make a decision about whether we would be prepared to act for you on a **No Win – No Fee** basis. At that time, we will provide you with a proper written advice regarding your prospects of success and whether we are prepared to act for you on a **No Win – No Fee** basis.

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Under our usual terms and conditions, *No Win – No Fee* simply means that we if take your case on, we will only be paid a reasonable fee for the legal work we have done for you at the end of the claim if you win.

In the highly unlikely event that your claim goes to trial, and in the even more unlikely event that your case goes all the way to trial and you lose, we will not seek to charge you anything for all of the work we have done for you. However, it is likely that the court would order you to pay the other side’s legal costs, which could be a substantial sum.

If we act for you on a *No Win – No Fee* basis, we will pay for all expenses such as expert fees, doctors’ reports, court filing fees and so on.

**Other firms will make you pay these expenses up front even though they are acting *No Win – No Fee*; this could cost you thousands of dollars.**

### **Accessing Superannuation early because of Financial Hardship**

If you are suffering through financial hardship, you may be able to access your superannuation early. The Department of Human Services (Centrelink) have systems in place to help those in dire financial need.

If you:

- Urgently need money to pay for medical expenses, disability-related expenses, palliative care or funeral expenses;
  - Have been receiving Centrelink payments for at least six months and cannot meet your day-to-day expenses;
  - Risk your home being sold by your mortgage lender;
- then you may be able to gain early access to your stored super. You should contact the Department of Human Services direct on 1300 131 060 to see if you qualify and also speak to your super fund.

### **I have already lodged my Claim – can Turner Freeman still help?**

If you have already lodged your claim we can help you finalise it and get through the many roadblocks that the insurer and trustees will be putting in your way.

We can advise you about the reasonableness of requests for information or medical appointments made by an insurer. If the claim is taking too long we can assist you to enforce your rights under the policy.

We can also help you respond to procedural fairness letters and help you gather the evidence you need to get your claim accepted.

The benefit of engaging a specialist disability insurance lawyer to look after you and your claim is that it immediately becomes the responsibility of your lawyer to take care of all dealings with your super fund and insurer and to make sure the documents are lodged on time and are completed correctly.





### We provide legal advice and representation in the following areas of personal injury and accident compensation:

- Workers Compensation/Work Related Claims/ Work Accidents
- Asbestos and Dust Disease (including Silicosis, Asbestosis, Asbestos Related Lung Cancer, Mesothelioma)
- Motor Vehicle Accidents
- Slip and Fall Accidents
- Wrongful Death Claims
- Dependency Claims
- Work Related Skin Cancer Claims
- Defective Product Claims

Remember if we act *No Win – No Fee*, your obligation to pay legal fees for the work we do only ever arises if and only if we proceed with the claim and only if your case is successful and at the end of the matter after the settlement sum or judgment award has been recovered. So if you don't win, you pay nothing to us at all.

### ✓ Public Liability Claims

Each year, many people suffer injuries due to the negligence of others. Unfortunately, few people are aware of their right to lodge a claim to recoup lost income, or to compensate them for any serious suffering that they experienced. If your quality of life has been compromised because of someone else's failure to ensure your wellbeing, you are well within your rights to contact a lawyer.

If you have sustained an injury, for example slip and fall, on a public or private property you may be entitled to compensation.

### ✓ Work Injury Claims

Whether you work in an office or down a mine, it is an unfortunate fact of life that accidents happen. If you have physically or emotionally suffered as a result of your work or workplace or sustained an injury at work or during work hours (for example while on a lunch break), you may be entitled to compensation.

As specialist compensation lawyers, Turner Freeman Lawyers are experts in handling Workers Compensation and Work Injury Compensation claims for all types of work related Personal Injury.

### ✓ Motor Vehicle Injury Claims

If you have been injured in a Car Accident or Motor Vehicle Accident you may be able to claim damages compensation under Queensland's Compulsory Third Party (CTP) system.

Turner Freeman Lawyers are expert motor vehicle accident lawyers who can manage Car Accident injury and compensation claims for all types of Personal Injury including spinal injury, head injury, fracture, whiplash, soft tissue and eye injury as well as shock, anxiety and depression.

Phone now for an obligation free consultation

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