

Family law splits & Early release

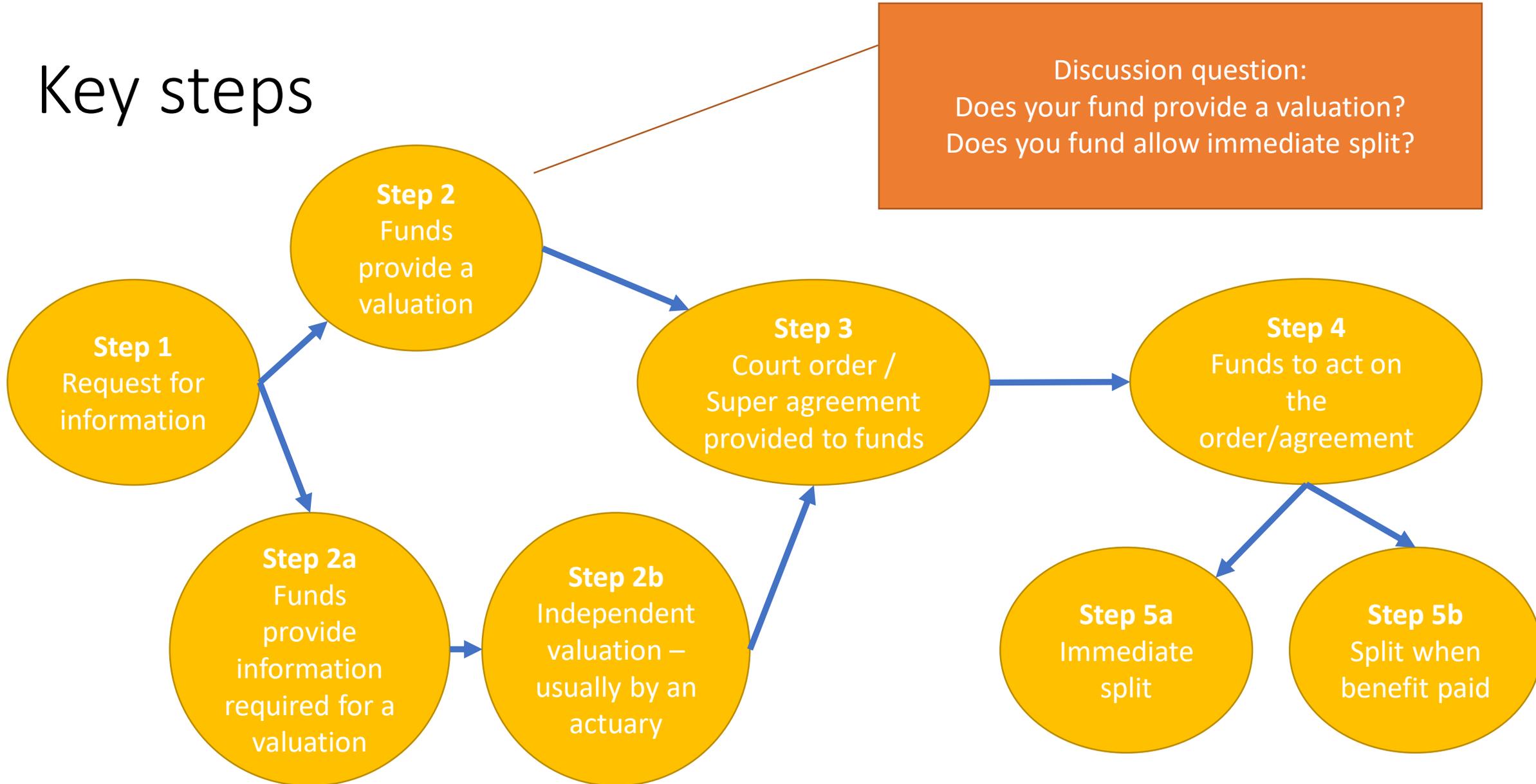
For discussion only: Approaches by different DB funds
23 March 2021 – Defined Benefits Special Interest Group

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Background

- Since December 2002, parties whose marriage has broken down have been able to split their super interests in the same way as they can divide other property.
- Decisions made by the Court are guided by the 'clean break' principle.
- It is more difficult to value a defined benefit interest. Different DB funds have different splitting mechanisms so an immediate split is not always possible.

Key steps



“Splitting” and “flagging”

- **Splitting order:**

When a benefit is split, the entitlement will often be an agreed dollar amount (**a base amount split**). Otherwise, it might be a percentage of the member’s benefit when it is paid (**a percentage split**).

Subject to fund rules, the split can occur **immediately** if a base amount is prescribed. Otherwise, the split will only occur when the benefit is payable to the member.

If the split is deferred, the base amount has interest added at AWOTE + 2.5% p.a.

Flagging order:

- A flag stops the fund from paying all or part of a member’s benefit until the flag has been lifted.

The purpose is to defer a final agreement about the division of the subject superannuation interest until a later date.

Reduction of member's benefit

If a split has occurred based on a base amount, Trustee/trust deed determine how the member's benefit is reduced. Common approaches are:

- A negative (offset) accumulation account
 - Credited with investment return of DB assets
 - Credited with AWOTE + 2.5% p.a.
- Reducing past service or multiple (such that the member's benefit reduces by the proportion of the value of the benefit transferred)

Discussion question:
Which approach is used by your fund?

Early release measure

Under the Federal Government's response to the economic effects of Covid-19, accumulation members can withdraw up to \$10,000 from their superannuation in each of the 2020 and 2021 financial years respectively, where they have applied to, and been approved by, the ATO.

Trustees

- must action these release authorities for accumulation interests
- however, have the discretion to decline these authorities where received in respect of define benefit interests

Discussion question:

Did your fund allow early release of DB interest?
Any request/complaints from DB members (if any)?