



SECTION 7

Inadequate support for First Nations claimants

Our review of death benefit claims handling practices included a particular focus on the needs of First Nations members and claimants. We wanted to understand and document how First Nations peoples are affected differently by death benefit claims handling processes and to drive trustees to improve service delivery to First Nations members and claimants.

Our observations generally confirmed the stories First Nations advocacy and consumer groups have shared with us about their clients' experiences. While there has been, and continues to be, some meaningful progress, most trustees could do more to support First Nations members and claimants.

Case study 5: Barriers for First Nations peoples accessing death benefits

A First Nations man living in a remote community passed away. He had a death benefit of around \$100,000 including insurance. He had a wife, an adult son and other children by cultural adoption. The man's wife made a claim for his death benefit.

The wife told the trustee on several occasions that she was suffering financial distress and, based on our review, it was clear that she was having difficulty navigating the claims process and understanding how to complete claim forms. In particular, she did not understand which children were beneficiaries at law because Indigenous customs about adoption and financial dependency are different.

She also had difficulty meeting the identification requirements because she did not have standard identification documents for her deceased husband. The trustee wanted to contact the member's children separately to understand if they were entitled to death benefits, but many of them did not have a phone and had a cultural expectation that the wife would deal with the trustee on behalf of the family.

The trustee did not respond to the wife's concerns about financial hardship or support her to understand the claims process. Despite having an alternative identification policy, the trustee took **more than a year** to offer the wife alternative identification options.

The trustee finally decided to pay the wife after more than 500 days. However, as of the date we collected the claim file, the wife still had not received payment.

Data for First Nations members

The lack of quantitative data collection by trustees about First Nations peoples' experiences is one of the greatest challenges in obtaining meaningful change in service delivery.

We required every trustee in our review to indicate what data they collected on their First Nations members. No trustee collected data in a comprehensive manner, but some trustees did record members or claimants who self-identify as First Nations with their consent to help the trustee to better engage with the member or claimant. Trustees then used that information to direct the member to a dedicated contact centre staffed by people who had received cultural competency training or to flag any specific needs for the next time the person contacted the trustee. A flag might include a note directing staff to use email (or another form of communication that suits that person's circumstances) instead of post because of difficulty accessing postal services in remote areas.

One reviewed trustee used postcode data to estimate their First Nations membership and inform service delivery. Another reviewed trustee has since committed in their Reconciliation Action Plan (RAP) to develop processes, procedures and system changes to record members who self-identify as a First Nations person.

There are opportunities for the purpose of this data collection to include analysis by trustees to gain insights into the claims handling experiences of First Nations claimants – for example, by examining end-to-end claims handling times for First Nations claimants and identifying any common causes of delays. One trustee has committed in their RAP to develop a business case to identify First Nations members through data collection from their contact centre and other mechanisms to better target services to those members.

First Nations peoples make up a greater proportion of the total population in rural, remote and regional Australia: see [Aboriginal and Torres Strait Islander health performance framework report](#) on the ABS website. To better understand the experience of First Nations claimants, we requested trustees provide us with member postcodes for each claim within the review period. We used member postcodes to determine which claims were more likely to involve a First Nations member and therefore more likely to involve First Nations claimants. This is a similar approach to that taken in Report 785 *Better banking for Indigenous consumers* ([REP 785](#)).

Note: See [Appendix A](#) for more information about how we used First Nations postcodes.

While postcodes do not provide definitive evidence of First Nations membership, they allowed us to estimate quantitatively the likelihood of different service outcomes that First Nations members and their beneficiaries might receive. Since First Nations peoples living in remote communities are likely to face additional barriers to service delivery compared with First Nations peoples living in cities, this approach allowed us to obtain insights about people most in need of tailored support.

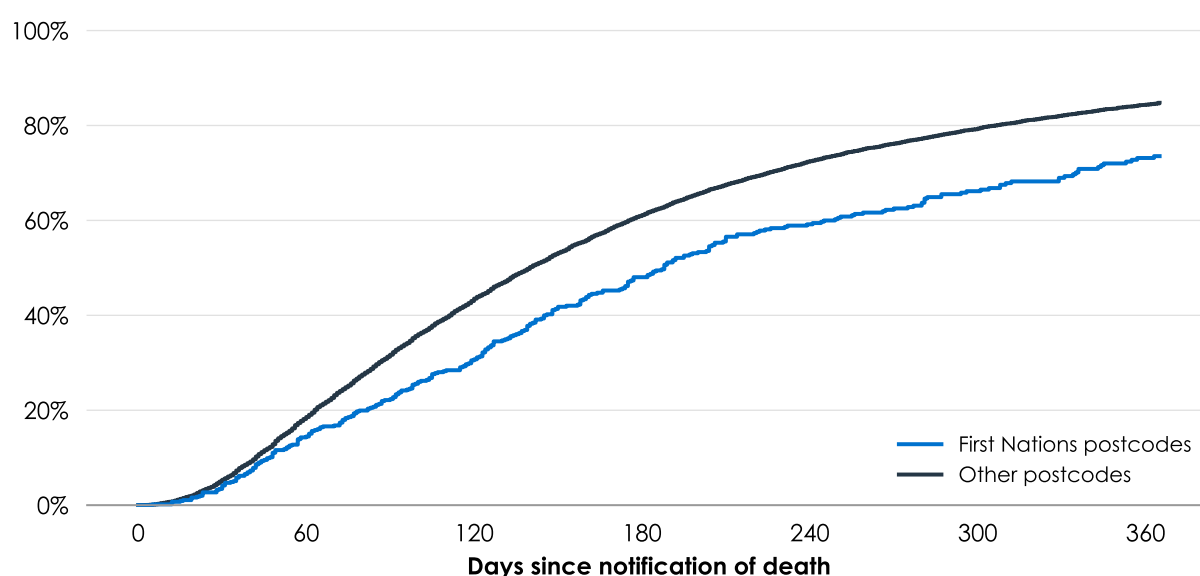
Across the review, we estimated that approximately 570 members lived in remote or very remote postcodes with high proportions of First Nations peoples (First Nations postcodes), indicating that they were significantly more likely to be First Nations themselves. We observed that the proportion of members living in First Nations postcodes varied widely across funds. The reviewed trustees with the highest number of claimants living in these postcodes (3%) were already aware they had relatively significant First Nations membership and had dedicated some resources to support those members. However, other trustees had not considered or analysed their First Nations membership. A few were surprised to learn that they had a relatively high proportion of members living in First Nations postcodes compared with other funds in the review.

Despite this, we were pleased to see that two trustees further analysed their entire membership after being presented with ASIC's postcode analysis. Those trustees have started thinking about better supporting these members, including by participating in the First Nations Foundation's Indigenous Superannuation Working Group.

Claims handling delays

We wanted to confirm whether claims for the death benefits of members living in First Nations postcodes were processed at the same pace as other members' claims. Unfortunately, our review revealed that claims for death benefits of members living in First Nations postcodes generally took longer: see Figure 13.

Figure 13: Percentage of claims closed since notification of death for members living in First Nations postcodes compared with other postcodes



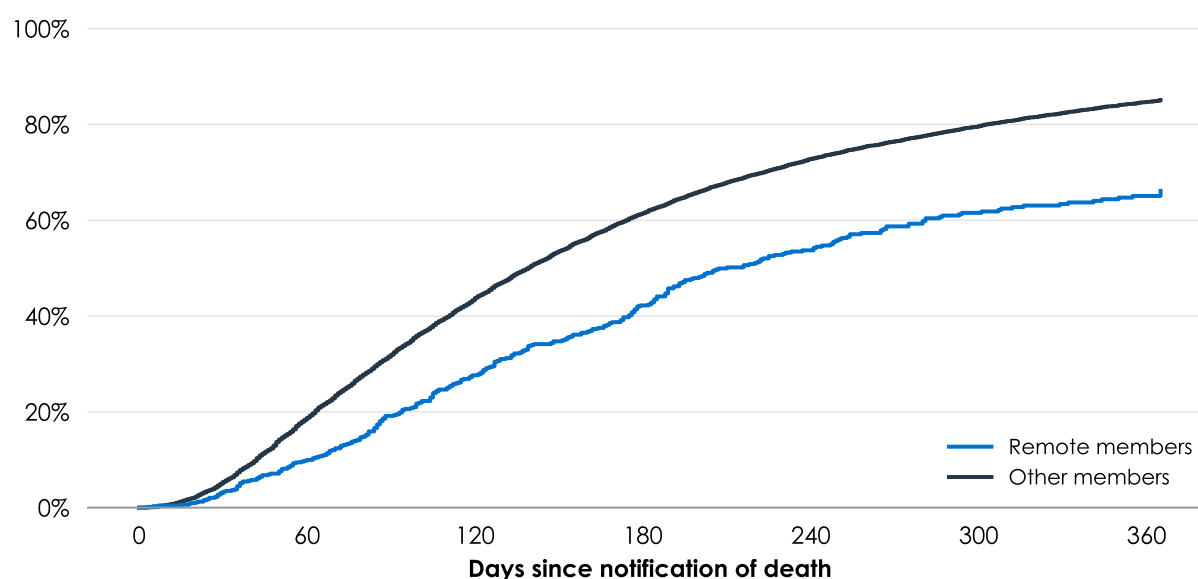
Note 1: See Table 15 for the data shown in this figure (accessible version).

Note 2: This figure uses the Kaplan-Meier method to estimate the percentage of claims closed by days since notification of death. See [Appendix A](#) for more information about the Kaplan-Meier method.

In our review of individual claim files, we saw delays caused by trustees responding slowly to the specific needs or circumstances of First Nations claimants – for example, trustees failing to identify a need to offer alternative identification options. However, we expect that most of the differences in handling times are explained by remoteness. We also looked at claims handling times for all remote and very remote postcodes in Australia (see [Remoteness areas](#) on the ABS website) and saw a similar trend – claims associated with these postcodes took longer to process: see Figure 14. This trend mirrors the trend in Figure 13.

These delays are likely due to trustee processes and procedures not being flexible enough to account for the challenges of living remotely, which can include limited access to facilities (e.g. postal services, reliable internet, document certification services, photocopiers, printers) and language barriers. Trustees should consider how they can improve or adapt their processes to account for these challenges, which can significantly affect a person's ability to make a binding nomination or a claim.

Figure 14: Percentage of claims closed since notification of death for remote and very remote members compared with other members



Note 1: See Table 16 for the data shown in this figure (accessible version).

Note 2: This figure uses the Kaplan-Meier method to estimate the percentage of claims closed by days since notification of death. See [Appendix A](#) for more information about the Kaplan-Meier method.

Note 3: See [Remoteness areas](#) on the ABS website for definitions of remote and very remote.

We were unable to make more detailed observations about First Nations members from the data we collected due to the small sample size and limitations of our methodology.

Actions for industry

To better understand the needs of their First Nations members and inform better service delivery, trustees should use available data (e.g. from the ABS and other public sources) to estimate the First Nations membership in their funds.

Trustees should also consider their ability to collect identifying data directly from First Nations members with their consent.

Supporting First Nations members and claimants

We observed that, across the review, policies and procedures to support First Nations claimants were lacking. Despite a lack of documented guidance, there were some reviewed trustees who had key staff with the particular expertise and skills needed to support First Nations claimants. However, we observed that access to those key people was not always direct or consistent. We observed that trustees with a greater customer service focus on the frontline could better assist First Nations members without any formal support or resources due to greater flexibility and power to find a solution that was already built into their processes.

Nonetheless, all trustees would benefit from developing guidance and training for claims and contact centre staff about how to support First Nations members and claimants, in particular:

- › how to engage with a First Nations person who, for cultural reasons, feels uncomfortable saying the name of the member who has passed away
- › challenges with digital exclusion and access to internet or mobile phone coverage in remote locations
- › challenges with accessing effective and reliable postal services in remote locations
- › challenges obtaining certified documents in regional and remote locations, and
- › the types of documentary evidence that may not exist for First Nations peoples living in regional or remote Australia (e.g. state-issued marriage certificates, utility bills, rental agreements, and joint bank account or credit statements).

Finally, we observed that some trustees had a policy of advising First Nations claimants that the trustee could not make an interim payment to assist with funeral expenses. For many First Nations peoples, funerals are important cultural ceremonies that honour the deceased and show respect for their spirit, allowing it to pass on. Funerals often take precedence over other activities in the deceased's community, including regular business activities. The inability to pay for a funeral is likely to cause significant emotional distress and prolong the grieving process for the deceased's family.

Trustees can make interim payments to a beneficiary for any reason provided there is no restriction in the trust deed or governing rules (see reg 6.21 SIS Regulations), and many regularly do make such payments to alleviate financial hardship.

We would encourage all trustees to consider the circumstances under which they can make an interim payment quickly to assist a First Nations claimant to cover funeral expenses.

Case study 6: Avoiding unnecessary delays for First Nations claimants

A First Nations man with four children passed away. He had a small balance in his account and no insurance. The children's grandmother (i.e. the man's mother) lived in a very remote area. She made a claim on behalf of the children in her care.

When the grandmother returned the claim form and supporting documents by email, she was asked to resend them by post. This created an unnecessary delay. The trustee also asked the grandmother a number of sensitive questions about the man's life and death, without first seeking to understand if the information was actually necessary. These questions may have been upsetting for the grandmother.

The grandmother was also asked to provide information about each of the children. She explained that they had different mothers – two children lived with the grandmother and two children lived with their mothers. One of the children living with the grandmother did not have the member listed as the father on their birth certificate, but the child was widely regarded as the man's child by the rest of the family. The trustee accepted this and did not require the grandmother to obtain further evidence of the relationship, which could have been difficult given her location. This prevented an unnecessary delay.

The trustee asked for contact details for the other two children and made contact with the third child's mother. The remaining child's mother was contacted and declined to make a claim or provide any information.

The trustee requested information about the grandmother's custody of two of the children, which she provided by email. However, the trustee then waited 4 months before deciding it needed more information. This created an unnecessary delay. The trustee then obtained the information it needed by phone, avoiding further delay.

The trustee took two more months to make a decision and then over a month to notify all the claimants.

The trustee paid the benefit to the grandmother on behalf of the two children in her care, and to the mother of the third child on that child's behalf, waiving the requirement to set up minor trusts, which was appropriate in the circumstances and avoided further delays.

However, the trustee then insisted on both the grandmother and the mother providing bank statements, which resulted in an additional delay of almost 2 months before payment. This delay could have been avoided if the trustee requested payment information earlier in the process or waived the requirement for bank statements.

The entire process took over 16 months.

Actions for industry

Trustees should review their policies and procedures to identify barriers for First Nations members and claimants and make changes to remove those barriers where possible.

Trustees should provide contact centre staff with appropriate resources and training to support First Nations members in a culturally appropriate manner and be empowered to escalate issues facing First Nations claimants where processes and procedures do not meet their needs.

AUSTRAC alternative identification guidance

Some First Nations consumers struggle to provide financial services organisations with identity documentation that has been adequately verified:

- › Many First Nations consumers do not have a birth certificate. This can be resolved by applying for a new certificate if the original copy has been lost. The process can be more difficult if the birth has never been registered.
- › Some First Nations consumers have multiple names. They may have a traditional name, a birth name and an adoptive name, and different formal identification documents in each of those names.
- › If someone applies for a photo identification document without their birth certificate, there may also be inconsistencies between the date of birth recorded on each identity document. In remote communities, identification documents such as driver's licences are often issued by the local police station.
- › Inaccurate spelling of an individual's name or date of birth on identification documents is also not uncommon.

Note: For more information, see A Gordon & N Boyle, 'Superannuation: A more collaborative approach needed to overcome Indigenous disadvantage' *Indigenous Law Bulletin*, 2015, 8:10–15.

The AML/CTF Rules and AUSTRAC [guidance on assisting customers who don't have standard forms of identification](#) are designed to support superannuation funds and banks to use alternative forms of identification.

AUSTRAC's guidance recommends banks and superannuation funds develop and maintain risk-based procedures to help identify and verify customers who do not have standard identification so that they are not denied access to financial services. This is to support financial inclusion so that individuals from diverse backgrounds, facing challenging circumstances or experiencing vulnerability are not excluded from essential financial services.

AUSTRAC's guidance can be used to support individuals from a range of backgrounds including First Nations peoples and people whose documents have been destroyed in a natural disaster or are not available to them as a result of family and domestic violence. While the guidance provides many examples, it heavily emphasises the need for financial institutions to be flexible according to the level of risk presented by the individual and their specific circumstances.

Most trustees we reviewed had a policy and procedure for considering alternative identification requests. Most of the alternative identification policies we reviewed appeared to be copied verbatim from AUSTRAC's guidance without any further consideration or tailoring for the fund and individual's circumstances. As a result, we are concerned that the examples in the guidance have become a finite list of acceptable options rather than a starting point from which the trustee can make a flexible assessment of the claimant's specific circumstances and the alternative identification options that may be available to them.

We saw examples of trustees taking significant time to offer alternative identification options to First Nations claimants – a possible indication that claims staff were not initially aware of the policy. We also saw examples of trustees taking a rigid – rather than flexible – approach to alternative identification.

Some trustees required one or two escalations to management or other teams to obtain approval to offer an individual the alternative identification options set out in the guidance. Often final decisions about whether to offer alternative identification options were made by a dedicated AML/CTF team. While we support robust compliance with the AML/CTF Rules, we would encourage trustees to consider whether their alternative identification processes actually permit the level of flexibility emphasised by the guidance.

Actions for industry

At a minimum, trustees should provide staff responsible for anti-money laundering and counterterrorism financing obligations with cultural competency training to assist them in applying AUSTRAC's guidance to meet the needs of First Nations claimants.

Trustees should empower contact centres to quickly escalate issues with alternative identification to the team responsible for making decisions about alternative identification.



Driving better support for First Nations members and claimants

Examples of planned or implemented improvements by trustees to support First Nations members and claimants include:

- developing a RAP with specific commitments to increase the trustee's understanding of First Nations peoples' service needs and improve service delivery to First Nations members
- using the postcodes from [REP 785](#) (or other methodologies) to estimate the fund's First Nations members who may need additional support and identify opportunities to better serve First Nations peoples
- adding 'remoteness flags' to accounts for members living in remote and very remote postcodes, which will prompt staff to consider whether additional support may be needed to serve the member or claimant
- accepting verbal third-party authorisations for financial counsellors who are assisting members or claimants to engage with the fund
- developing an alternative identification form for First Nations members and claimants, and
- joining the First Nations Foundation's Indigenous Superannuation Working Group