

**From:** CEO  
**To:** [Economics Committee \(SEN\)](#)  
**Subject:** QoN - Council of Small Business of Australia  
**Date:** Thursday, 12 October 2017

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Please see attached the relevant information related to the Question on Notice from Senator Hume.

Regards

Peter Strong  
CEO (Based in Canberra)

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## How to avoid contribution arrears

By participating as a HESTA employer, you agree to abide by the terms and conditions set out in the HESTA Trust Deed. One of those conditions is to pay contributions for your employees monthly, and to make the payment for each month by the 14th day of the following month.

We require all employers to remit contributions monthly to ensure that investment earnings accrue to member accounts promptly, and to facilitate the payment of disability and death insurance premiums.

Most industrial agreements also require employers to remit super contributions monthly. Some employers may have completed HESTA's *Employer application for quarterly contributions* form to apply to only pay quarterly, in line with their separate obligations under the Superannuation Guarantee legislation.

Regardless of your agreed frequency of employer contributions, if you deduct personal super contributions from an employee's pay, you are required by law to send those amounts to their super fund within 28 days of the month in which you made the deduction. APRA can impose heavy fines on employers for non-compliance.

If we don't receive your employer payment by the 14th of the following month, we'll send you a reminder letter. Further reminders may follow. We may also contact our members directly, and legal action may be taken to obtain the entitlements of Fund members.

### Avoid arrears follow-up

**1** The easiest way to avoid an arrears follow-up is to make your contributions on time.

**2** Make sure that you provide contribution details for each employee. Include a payment of \$0.00 to denote that an employee is not entitled to a contribution for that period.

**3** If none of your employees is eligible for superannuation for a payment period, return your *Contribution advice* with the Grand Total marked as "Nil" so that our systems will not record a non-payment.

## **Industry Superannuation fund managers are scamming business**

COSBOA has been concerned for some time about the behaviour of the industry superannuation funds.

They have been a law unto themselves for too long and need to be brought into line and behave like ethical efficient corporations.

Their behaviour and practices would not be acceptable to banks and other financial institutions and certainly not for government agencies.

The problem is that we, as employers, are forced to do their work for no financial return and we will get fined by the government if we do not do their work, no matter how difficult the funds make compliance. The industry superannuation funds are in most cases the default fund that is in an industrial award and so the employer has no choice but to use that fund, no matter how difficult or inefficient they are, and they are very inefficient in their processes and their communications.

In normal business practices if a supplier created too much work or were inefficient we, as a business, could just change suppliers. We cannot do that with superannuation. The fund we have to use is chosen for us by an industrial award or by the employee. We have to use organisations that in most cases are inefficient, poor communicators and run by a board that represents unions and big business organisations who do not understand, nor often care about, small business people.

### **Examples**

The rules for lodgement of superannuation are that a small business employer should lodge their employees' funds at least quarterly and provide enough information so that the fund manager can identify who owns the money.

But the industry super fund managers, who are the biggest funds, make up their own rules and ignore the government rules.

The scams are based around providing employers with false and misleading information and threatening small businesses with legal action even if they have not done anything wrong.

One fund states that employers are required to pay contributions by the 14<sup>th</sup> day of each month, another fund is even more demanding and threatening, to quote, "If you do not pay your contributions to REST within 7 days of receipt of this letter, or advise us that no contributions need to be paid, REST will instruct its credit manager to commence legal action to recover the outstanding contributions." REST, an industry fund, does not know if money is owed but is willing to make threats anyway. This fund cannot keep good records, isn't even aware whether the employer is still operating or the employee has left but is willing to waste time and money chasing

what is probably a phantom debt. That employer cannot refuse to use REST even though REST is obviously challenged in efficiency, challenged in ethics and challenged in understanding how business works. REST is a failure as a member of the business community but employers still have to use them.

These funds also demand that employers fill out complicated forms, either paper based forms or on-line forms. These forms are sometimes two or three pages and ask for information that we do not have to provide. They are convoluted, confusing and designed by people who have never had to fill one out.

One fund offers a free clearing house to send money to other funds. This appears to be kind but the problem is of course that they then make up their own compliance rules. For example in one case to be eligible to use this so call free service you have to have AustralianSuper as your default fund and have more than half your workforce with AustralianSuper. Given that over 60% of workplaces in Australia have less than 5 employees it seems that a business would have to have 3 employees out of four in AustralianSuper to use the clearing house and what if one leaves? Another fund allows access to their clearing house if you have at least 15 employees in their fund. No idea these super funds, no idea.

Another fund has a 'form letter' prepared in advance for a mistake they know they will make. The form letter starts off with a paragraph that is 37 has words (7 of which have 9 or more letters), has no full stop and is just gobbledygook. The second line (which has 28 words of which 10 have 9 or more letters) then admits to a mistake and offers the right information. Why didn't they get the information right in the first place, and why can't they communicate like professionals?

This arrogance has to be curbed. It is costing people time and money. It is forcing employers to take their mind off their business to look after someone else's business. It puts the job of the fund member (our employee) at risk and it detracts from a focus on safety in the workplace. Every minute of time wasted by a small business person doing unrewarding work is time better spent on making the business work and on safety.

Our preference is to take us out of the collection system and put super into PAYG and let the person who owns the money work things out with the Tax Office – and the Tax Office is much more efficient and engaging than the fund managers.

The other option is for the funds to actively promote the government's superannuation clearing house. This is a much better option for employers, the funds promised to promote it and so far their promotion has been half hearted at best.

7 February 2013

Mr Peter Strong  
Strolly Pty Limited

Dear Mr Strong,

## Your employee has chosen AustralianSuper

Employer number: [REDACTED]

We are contacting you because your employee Strolly Pty Limited has chosen to have superannuation contributions paid into AustralianSuper.

### What do you need to do?

Employers are required to pay superannuation contributions to AustralianSuper on a monthly basis. We will send you a Contribution Advice towards the end of each month. Simply complete and return the form to us, with your payment, by the 14<sup>th</sup> day of the following month.

Or you can join AustralianSuper and take advantage of our online payments service.

### Why become a participating employer?

AustralianSuper offers an easy and convenient way to administer your employee's super. This gives you time to focus on other aspects of your business. Joining AustralianSuper is free and gives you access to:

- easy payment options, including our free clearing house service- designed to streamline payment of employee contributions to multiple super funds
- dedicated service and super support - including a telephone helpline, website and onsite education for your employees
- a range of extra products and services - such as access to business banking services

Join online at [www.australiansuper.com/join](http://www.australiansuper.com/join)

### Need help?

If you need help or have any questions, please call AustralianSuper on **1300 300 273**, 8.00am to 8.00pm AEST weekdays or visit our website anytime at [www.australiansuper.com](http://www.australiansuper.com)

Sincerely

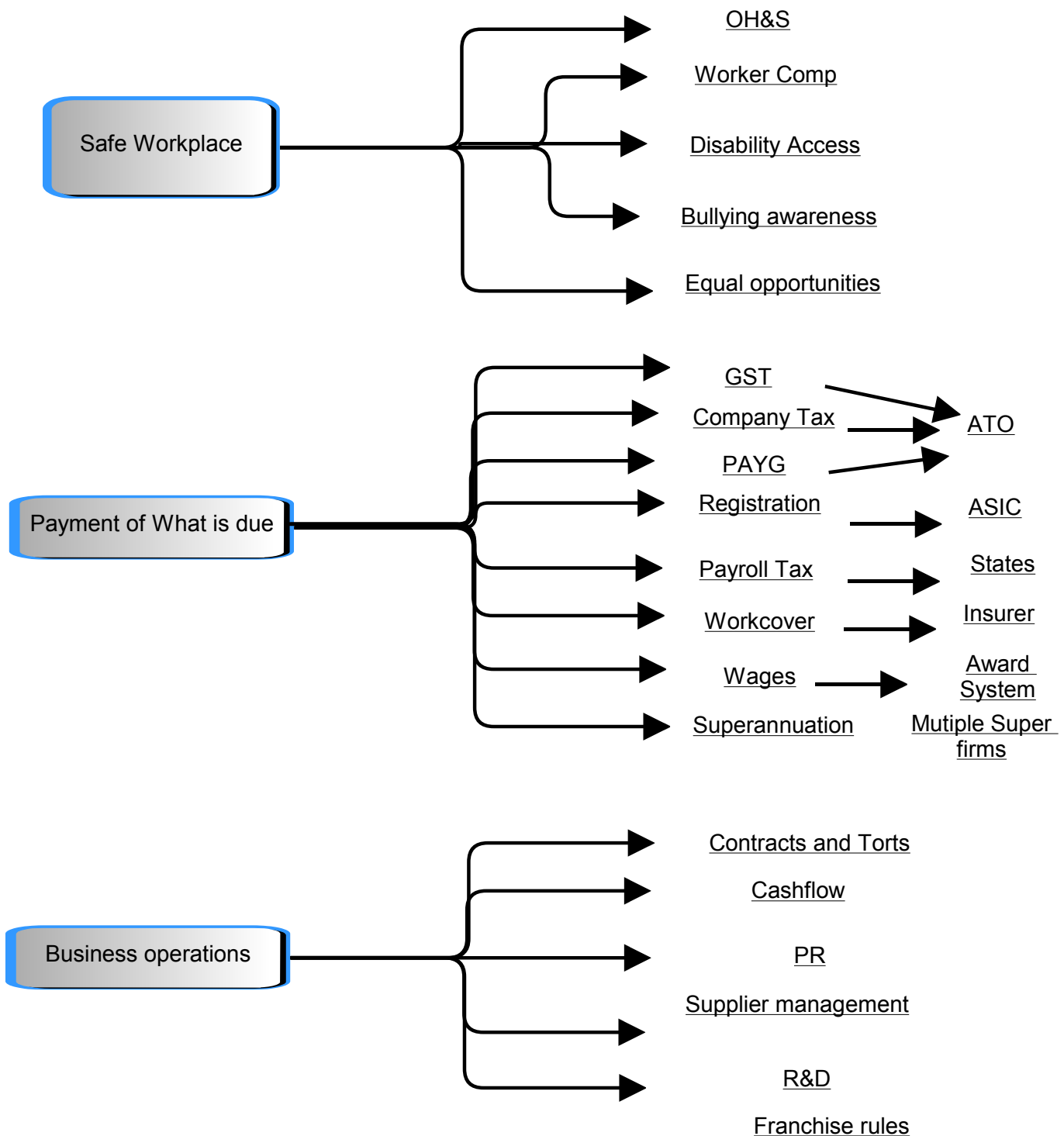
Ian Silk  
Chief Executive Officer

Enclosures:  
AustralianSuper Employer Handbook

Stream 5 - Standard Active



**The Employer is the Wellspring of all Monies**  
**Everyone wants to Control the Employer**  
**We have created a major choke point where the money is generated**  
**Large Business can defend itself with multiple professionals**  
**The Small business person copes as best they can.**



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http://www.agem.com.au/about-agem/directors/index.cfm

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Director, Pro Bono, Holding Redlich Solicitors. Former Senior Industrial Officer, ACTU. Director of another superannuation fund.

Other Directors

- Ms Sue Dahn (Appointed by the Minister, effective 26 March 2009)  
Partner, Picher Partners.
- Mr Michael Fisher (Appointed by the ACTU, effective 27 July 2010)  
Superannuation Policy Officer, ACTU.
- Mr Mark Gepp (Appointed by the ACTU, effective 1 November 2008)  
Senior Policy & Research Officer, Finance Sector Union of Australia.
- Ms Gail Owen, OAM (Appointed by the Minister, effective 3 May 2000 & reappointed 12 August 2004)  
Partner, HWL Ebsworth. Ms Owen was awarded the Medal of the Order of Australia (OAM) on Australia Day 2006 for "service to the law, particularly through the executive roles in a range of professional organisations".

AGEST's Governance and Compliance video

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start

Microsoft Office Word 2007 - 6:14:00 AM

Document1 - Mr...

Document2 - Mr...

AGEST Super - W...

2:25 PM

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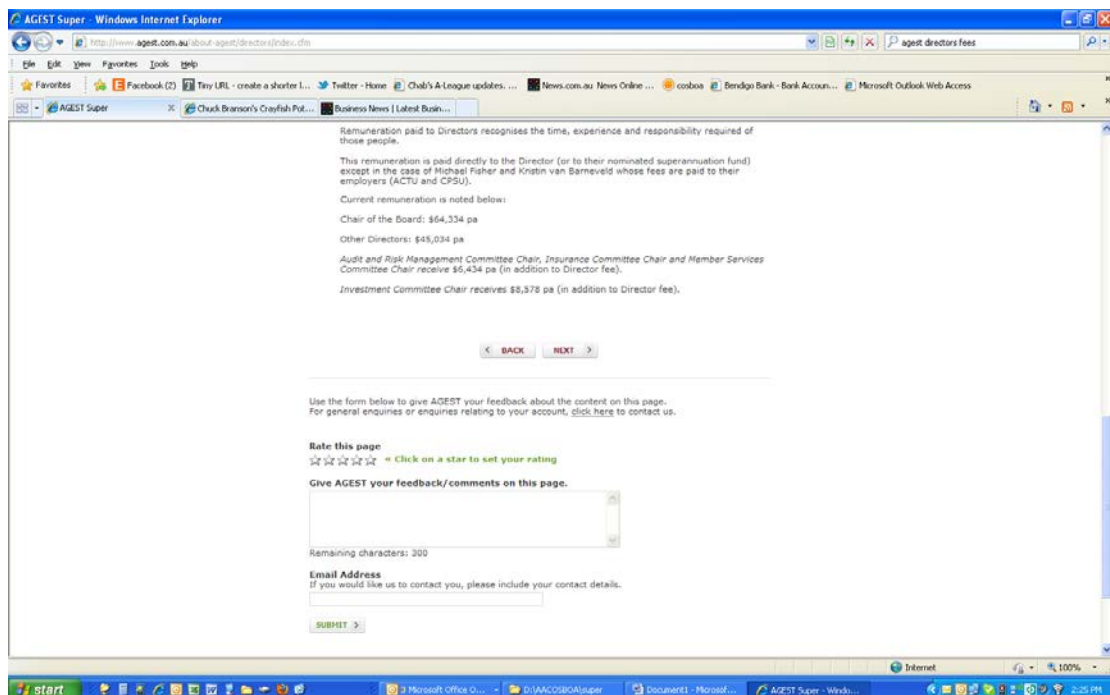
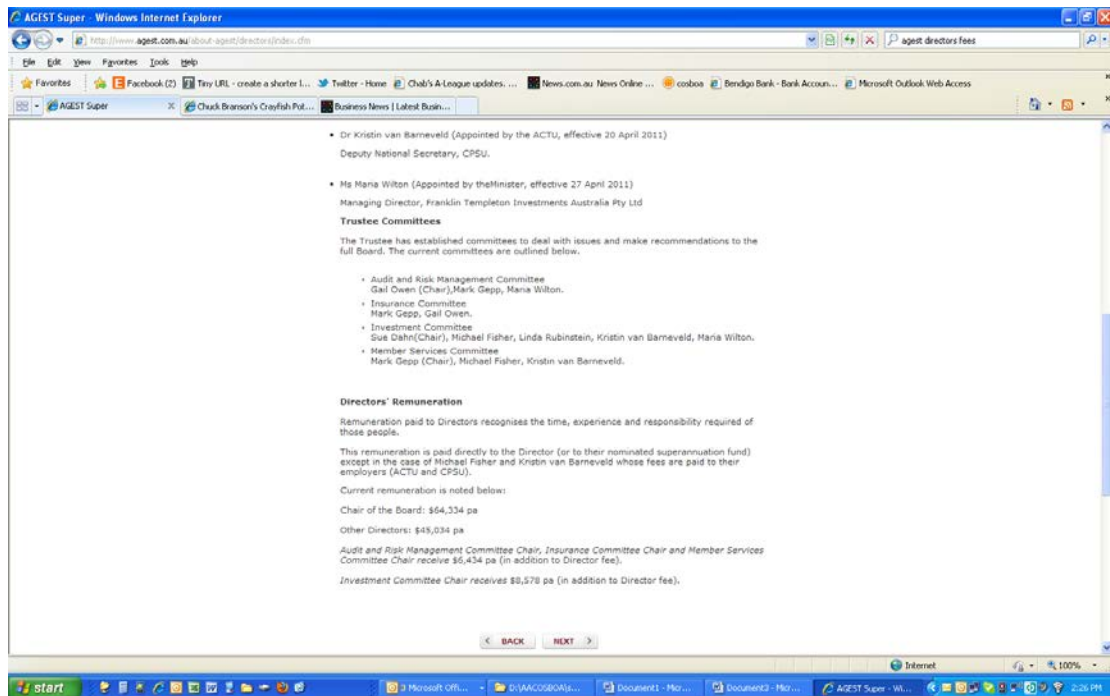
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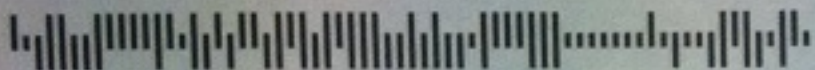
AGEST Super - W...

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Dear Mr [REDACTED]

Employer Number: [REDACTED]

**Attention: Overdue contributions**

We previously notified you about the unpaid superannuation contributions for your employees.

We note that your contribution(s) for the September 2012, December 2012 period remain unpaid and are overdue.

If you do not pay your contribution(s) to REST within seven days of the date of this letter, or advise us that no contributions are due to be paid, REST will instruct its Credit Manager, Industry Funds Credit Control (IFCC) to commence legal action to recover the outstanding contributions.

If you have failed to meet your superannuation guarantee obligations you must also provide the Australian Taxation Office (ATO) a superannuation guarantee charge statement. For more information, please visit the ATO website on [www.ato.gov.au](http://www.ato.gov.au).

**Please review your contributions as a matter of urgency**

We remind you that you are able to pay your contributions and provide your contribution data online via EmployerAccess at [www.rest.com.au/employer](http://www.rest.com.au/employer).

Alternatively, please send your payment and accompanying contribution return to:

REST Industry Super  
PO Box 350  
Parramatta NSW 2124