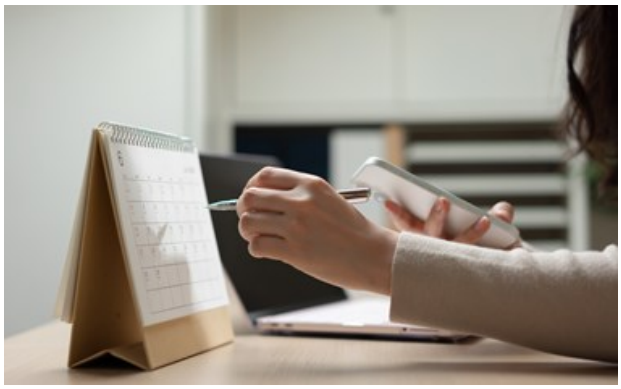

# Why timelines matter for TPD claims: the issue of superannuation fund mergers and change of insurance providers

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When it comes to Total and Permanent Disability (TPD) claims in Australia, timing is often just as important as medical evidence. Many people assume that if they become unable to work due to illness or injury, they simply lodge a claim through their superannuation fund and receive the insurance benefits they think they are entitled to. However, the reality is far more complex.

The Australian superannuation industry has experienced significant consolidation over recent years. It is becoming increasingly common for Superannuation funds to merge and for insurance cover held through personal superannuation, to change providers and policy holders. Understanding exactly when a person stopped work, when they became disabled, and which insurer was on risk at the relevant time can significantly impact the outcome of a claim, the amount of insurance a claimant is entitled to as well as the criteria the claimant must meet to be eligible to make a claim.

## What is the 'date of disablement' in a TPD claim?

In most TPD claims, one of the key questions is: when did the member become totally and permanently disabled?

This date is critical because it determines which insurance policy applies to the claim. Particularly when considering historical claims, or injuries that occur gradually over time, the date of disablement becomes a complex but vital element to narrow in on.

The ‘Date of Disablement’ can vary across policies; however it can be a date an accident occurred, a diagnosis is made, and more commonly, the date the claimant has left work entirely or satisfied the waiting period after stopping work. Failing to identify the correct date of disablement can result in claims being assessed under the wrong policy, potentially creating unnecessary disputes

or delays.

For example: The claimant is a builder, with a physically demanding job. They were involved in an accident at work and injured their back in November 2023. They took leave to recover for three months, then returned to work in a reduced capacity in February 2024. Over time, the claimant's back got worse, they took periods of leave before finally leaving their position altogether in April 2024 on their doctors' advice. Their doctor advised they cannot return to this line of work.

In this example, depending on the specifics of their policy, their date of disablement is likely April 2024. At this point they have left their position altogether; they are not undertaking any hours or duties in their usual occupation as their treaters have opined that they do not have the capacity, and they will not regain their capacity.

## Fund mergers and changes in insurance providers can complicate TPD claims

While mergers can benefit members in some ways, they can also create challenges for members pursuing TPD claims.

Often, if a member's fund merges with another, there can be a change in insurance providers, or insurance can be cancelled altogether should the member not opt in upon notice. The requirement to opt in can often get lost in the myriad of information presented to members in anticipation of a merger involving their fund, therefore members could have a reduction in their entitlements or lose long held insurance altogether, without even realising it.

If a claimant was injured and received a diagnosis prior to the merger, but did not stop working until after the merger, and their policy definition required them to have stopped work altogether, the claimant may find that their 'date of disablement' occurred after the merger and as such may face a lower entitlement or a loss of entitlement altogether.

## Why changes in insurance providers matter

Superannuation funds frequently review and replace group insurance providers. A fund may move from one insurer to another as part of a tender process, often resulting in new policy terms and definitions.

While members generally remain insured during these transitions, the cover is not always identical and often the specific threshold a claimant must meet, may alter.

In these circumstances, determining which insurer was responsible at the relevant time can be critical. A claim that appears weak under the current policy may be significantly stronger under a previous policy that was in force when the disablement occurred.

This is why experienced legal practitioners often spend considerable time reconstructing a claimant's employment, medical and insurance history before formally lodging a claim.

It is critical to accurately convey your medical and employment history to your assisting lawyer, so that they may best determine your claim's chance of success, the most accurate 'date of disablement' under your policies and the most suitable policy holder for

this time.

Funds will often allocate your claim to an insurer based on surface details, which can lead to claim going through a lengthy assessment with an insurer, before it is determined that another insurer is actually the responsible party. This can come down to individual days should the date of disablement occur around the time of a change of insurance providers.

## Why early investigation is essential

For anyone considering a TPD claim, one of the most important steps is conducting an early investigation into their insurance history and the timeline of events.

Key questions include:

- When did the illness or injury first affect work capacity?
- When was the last day of employment?
- Which superannuation fund held the insurance cover at that time?
- Had the fund recently merged with another fund?
- Was there a change of insurer before or after the disablement?
- What were the policy terms in force at the relevant date?

Answering these questions early can help avoid delays, identify the correct insurer and ensure the claim is assessed under the most appropriate policy.

If a merger or change in insurance provider is in issue, these details can be evidenced to the super fund through information such as; health records, specialist reports, leave records, fund specific employer statements, tax records and WorkCover files.

## Why getting legal advice early is important

If you are no longer able to work due to injury or illness and think you may be entitled to the total and permanent disablement benefit attached to your super fund, getting legal advice early is crucial. The team at Guardian Injury Law are experienced in pursuing TPD claims and understand that timelines are far more than administrative details. They often determine which policy applies, which insurer is responsible, and whether a claimant satisfies the relevant definition of total and permanent disability.

The team at Guardian Injury Law are also aware that fund mergers, changes in insurance providers and evolving policy terms can all significantly affect your entitlement to benefits. For this reason, establishing a clear and accurate timeline of employment, medical treatment, insurance coverage and superannuation fund membership should be one of the first steps in any TPD claim.

This can be a significantly strenuous task, requiring the ability to appropriately decipher complex policy definitions, requirements, and evidence to give your claim the best chance of success.

Contact Guardian Injury Law today for a free initial appointment to discuss if you have an eligibility to make a TPD claim.

## Contacting Guardian Injury Law

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