

**New South Wales Police Legacy**  
**POLICE BENEVOLENT FUND POLICY**



**Version Control**

Purpose

The purpose of this document is to provide guidance and a framework in relation to the management of the NSW Police Legacy Police Benevolent Fund and includes information on history, eligibility and access to funds.

Distribution Control

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## POLICE BENEVOLENT FUND

- HISTORY

The Police Benevolent Fund (the Fund), having been established circa 1930, was formally transferred to the administration and management of NSW Police Legacy, by order of the Solicitor General of NSW (as Delegate for the Attorney General of NSW) on 24 September 2014 with effect as and from 24 October 2014. (Reference NSW Government Gazette 82/2014).

Whilst official documents regarding the formal establishment of the Fund appear to have gone astray, it is important, albeit briefly, to acknowledge that the Fund appears to have had its genesis in or about 1929 with money that was a gift to the NSW Police Force by a prominent Chinese family of that time. The money was to assist police officers and their families who may have found themselves in “...*necessitous circumstances.*” For the purpose of the administration of the Fund, “...*members were deemed to be serving or retired members of the NSW Police Force and those who had been discharged from the NSW Police Force on medical grounds*”.<sup>1</sup>

The Rules of the originating Fund (which appears to have been known as the Police Relief Fund on its establishment) were drafted circa 1930 and in its initial formation was chaired by Mr Octavius Beale, a prominent businessman and philanthropist.

Research does not seem to indicate that there was a Founding or Seed Agreement or Deed associated with the establishment of the PBF, however, the objects of the Fund were stated to be:

*“To afford relief by granting assistance to a member or the dependent/s of a member who is/are in necessitous circumstances PROVIDED that no relief shall be given to a member or the dependent/s of a member wherein the necessitous circumstances have arisen through the misconduct of such member or the dependent/s of such member”.*<sup>2</sup>

Importantly, a member was a “*police officer or retired police officer...and those who had been discharged from the Police Service on medical grounds*”.

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<sup>1</sup> Rule 2, Police Benevolent Fund.

<sup>2</sup> Rule 3, Police Benevolent Fund.

When the Fund changed its name from the Police Relief Fund to the Police Benevolent Fund is not known. The rules of the then Fund were last amended in 1985.

Subject to the abovementioned approval (of the Solicitor General 2014), new Rules have been prepared that are consistent with both the Order of the Solicitor General and the spirit and intent of the original Rules.

The Board of NSW Police Legacy approved the new Rules on 8 December 2014.

- **THE NEW RULES**

1. The Fund shall be called the Police Benevolent Fund.
2. NSW Police Legacy Ltd shall be the Trustee of the Police Benevolent Fund.
3. The Fund shall be administered by the Board of NSW Police Legacy.
4. In these Rules -
  - 'Fund' means the Police Benevolent Fund.
  - 'Member' means a sworn serving or former member of the NSW Police Force and those who have been discharged from the NSW Police Force on medical grounds.
  - 'Dependents' means the spouse or partner and/or child/children dependent upon a sworn or former member, the widow/widower or partner, or child/children or the parent(s) wholly dependent upon the deceased sworn or former member. It does not include sworn or former officers who have resigned from the NSW Police Force. See Appendix 1. (See also the Beneficiaries' Policy, NSWPL).
  - 'Application' means an application duly made seeking assistance from the Fund.
  - 'Necessitous circumstances' is as defined by the Australian Taxation Office from time to time and generally refers to financial necessity. It is to be interpreted in light of the general present day economic circumstances of the applicant. It does not extend to need generally but may involve poverty, though it may not be abject poverty or destitution and does not mean being without luxuries. A person is said to be in necessitous circumstances where they don't have sufficient financial resources to have a modest standard of living in Australia. (Appendix A)

5. The objects of the Fund shall be to afford relief by granting financial assistance to a sworn serving or former member or the dependent(s) of a sworn serving or former member who is/are in necessitous circumstances PROVIDED THAT no relief shall be given to a sworn serving or former member or the dependent(s) of a sworn serving or former member wherein the necessitous circumstances have arisen through the misconduct of such sworn serving or former member or dependant(s) of such member.
6. The trusteeship and management of the Fund shall be vested in the Board of NSW Police Legacy Ltd. Accordingly, the Board may delegate the day-to-day administration of the Fund to the Executive (Chair, Vice Chair and Treasurer) who will consider all applications made for access to the Fund on their merit and make appropriate recommendations to the Board for approval.
7. The Executive Manager shall be responsible for the presentation of applications for funding, proper recording of decisions and recommendations made to the Board.
8. The Executive Manager shall report on a monthly basis to the Board on applications made for funding and advise on any recommendations relevant to each application.
9. The Treasurer, NSW Police Legacy will ensure that applications and decisions made regarding access to the Fund meet appropriate financial guidelines.
10. The Chair, NSW Police Legacy will ensure that a full account of the operations, audit and financial management of the Fund is provided on a monthly basis to the Board and on an annual basis to the Annual General meeting of NSW Police Legacy.
11. The Executive Manager (on delegation of the Chair, NSW Police Legacy) will ensure compliance with all Commonwealth and State statutory requirements relating to the reporting requirements, audit, governance and compliance of the Fund.
12. Applications for financial assistance shall be made in writing and preferably supported by independent evidence and where warranted, independent expert advice. The Police Benevolent Fund application form must be completed.
13. Such applications must outline:
  - (a) full name and address of the sworn serving or former member or dependant(s);
  - (b) details of the financial assistance sought by the sworn serving or

- former member or dependant(s) of the sworn serving or former member;
- (c) details of the sworn serving or former member's partner or spouse and dependents;
  - (d) whether the sworn serving or former member, his/her partner or spouse or dependant(s) is/are covered by insurance or complementary scheme(s);
  - (e) details of cash or other assets on hand and held by the sworn serving or former member, partner or spouse or dependant(s) with any financial institution and, if so, the value or amount of that cash or asset;
  - (f) whether the sworn serving or former member, his/her spouse or partner or dependant(s) has/have any entitlement to any other form of relief or assistance of any immediate nature;
  - (g) the business capacity or experience of the sworn serving or former member, spouse or partner, or dependant(s); and
  - (h) any other supporting information on which NSW Police Legacy may be entitled to rely in making its decision.

14. In cases of extreme urgency and where, in the opinion of the Executive of NSWPL to grant an amount not exceeding 2.5% of the total current assets of the Fund (at that time) to any sworn serving or former member, spouse or partner or dependant(s). Such action shall be reported to the next meeting of the Board of NSW Police Legacy.

15. In granting or refusing financial assistance from the Fund, the decision of the Board, NSW Police Legacy shall be final and documented accordingly. Feedback should be provided to the applicant.

16. Any grant made to a sworn serving or former member, spouse or partner or dependant(s) of a sworn serving or former member shall not exceed the equivalent of 10% of the total current assets of the Fund in any one year.<sup>3</sup>

17. No monies shall be provided from the Fund to any person for any purpose whatever other than that which is provided for in these Rules, nor shall the Executive or the Board of NSW Police Legacy have power to utilise all or portions of the Fund for any purpose whatever other than as provided for in these Rules.

18. Alterations to these Rules or any new Rules may be recommended by the Executive and approved by the Board. Such approvals shall be

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<sup>3</sup> This would be more than the interest accumulated within 12 months.

endorsed at the succeeding AGM of NSW Police Legacy.

19. If, as a consequence of the adoption and/or application of these Rules it becomes necessary from time to time to amend the Constitution of NSW Police Legacy Ltd, such amendment may be made by way of a General Meeting of the Board of NSW Police Legacy Ltd and subsequently endorsed by the next AGM of the Company.
20. On dissolution of the Fund, the net assets, if any, may be transferred to a Fund or Institution that satisfies the requirements of Item 1, Section 30-15 of the Income Tax Assessment Act 1997, as amended from time to time.<sup>4</sup>
21. In the application and administration of the Fund, the Board of Directors of NSW Police Legacy will ensure compliance with the organisation's Constitution, charitable registration and legislative requirements (The Corporations Act 2001; The Charities Act 2013; The Australian Commission for Not-for-Profit Charities Act 2013; The Income Tax Assessment Act 1997 and other relevant State statutes).

#### • APPLICATIONS

Applications to access money from the Police Benevolent Fund are received through the Police Legacy office. The applicant will fill out the pre-formatted Police Benevolent Fund application form.

The Executive Manager will liaise with the applicant to ensure that all the required information has been provided. Based on the application and any other relevant background information, the Executive Manager writes a recommendation for the Board to consider and attaches any relevant information including the Police Benevolent Fund application form. The decision will be noted at the next Board meeting and the decision will be minuted with appropriate notation placed on the Beneficiary's file.

It is recognised that the Board of Directors has discretion for all applications and for each one they shall give consideration to, but not be limited by, the following;

- The age of the applicant;
- What precedent, (if any), the approval will create;
- What benefit the Beneficiary will derive from access to the funds;
- The current circumstances of the Beneficiary;
- Any relevant past history, including any previous applications or dealings with NSW Police Legacy;
- The balance of the Police Benevolent Fund;

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<sup>4</sup> Standard and essential clause for balance of funds to be transferred to a 'like' organisation if dissolved.

- What alternatives the Board could consider before granting access to the funds

Each application to access money from the Police Benevolent Fund is considered on its individual merits with due weight being given to the Executive Manager's recommendation. However, some Directors of NSW Police Legacy are in the unique position of being familiar with the potential beneficiary and their family. The NSW Police Legacy Board of Directors are ensuring that their Trustee duties are applied diligently and appropriately so that the Police Benevolent Fund plays a role in the welfare management of Police (serving and retired) and their families.

If approval is given, the Executive Manger will contact the applicant and request a nominated bank account in which to transfer the funds. The Executive Manager will then instruct the Police Bank on how and where to distribute the monies. The beneficiary (or their parent/guardian) is then notified of the outcome of their application.

All records are maintained in the Police Benevolent Fund folder in the shared drive.

## **REVIEW OF POLICY**

The Board will review this policy, and shall amend the policy from time to time as necessary to reflect developments affecting this policy but at least every 2 years.

## APPENDIX A

The expression 'necessitous circumstances' refers to financial necessity. It involves some degree of poverty, though it may be less than abject poverty or destitution. Necessitous circumstances do not extend to the absence of merely desirable advantages.

A person is in necessitous circumstances where his or her financial resources are insufficient to obtain all that is necessary, not only for a bare existence, but for a modest standard of living in the Australian community. A strong indicator of this would be where a person's level of income is such that they are eligible to receive income tested government benefits. While a person's level of income is a useful guide, it does not on its own indicate necessitous circumstances. For example, a person whose income level exceeds the welfare limit but who could demonstrate special or unusual circumstances which resulted in a marked lowering in their standard of living causing hardship, could still be considered to be in necessitous circumstances.

'Necessitous circumstances' is a relative term having regard to a person's particular circumstances. It has no fixed quantitative measure but it requires financial hardship. A person's assets, liabilities, family responsibilities, disasters suffered, illness, disability, etc., may cause them to be needy.

The death of a family member or the loss of an asset or a business does not necessarily place a person in necessitous circumstances. Regard should be had to the availability the person has to other sources of income or assets, superannuation, insurance, compensation, etc., which might in the particular circumstances enable the person to continue a modest standard of living.

Necessitous circumstances do not extend to needs generally. Accordingly, the needs of the sick, incapacitated, aged, etc., do not, on their own, constitute necessitous circumstances. However, it may be that a person's non-financial need causes financial necessity.

The particular circumstances giving rise to financial necessity are not necessarily permanent. For example, cyclones, floods and other disasters can cause people to be in financial need in the short term.

(Source: ATO TR 2000/9)