



Submission on the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019

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About UnitingCare Australia

UnitingCare Australia is the national body for the Uniting Church’s community services network and is an agency of the Assembly of the Uniting Church in Australia.

We give voice to the Uniting Church’s commitment to social justice through advocacy and by strengthening community service provision.

We are the largest network of social service providers in Australia, supporting 1.4 million people every year across urban, rural and remote communities.

We focus on articulating and meeting the needs of people at all stages of life and those that are most vulnerable.

Introduction

UnitingCare Australia is pleased to have the opportunity of commenting on provisions of the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019.

UnitingCare Australia is the national office representing the community services of the Uniting Church in Australia. Our services operate nationally across more than 1,300 sites in metropolitan, rural and remote Australia, delivering services to people across the life course. The views reflected in this submission are informed by the expertise from within the Uniting Church's community services network, particularly those focused on alcohol and other drug treatment and prevention.

We would like to reiterate concerns about the establishment of a drug testing 'trial' that we raised in our submission to the Senate Committee Inquiry on the Social Services Legislation Amendment (Welfare Reform) Bill 2017 and our submission to the Senate Community Affairs Legislation Committee on the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018 .

We are extremely disappointed that a third Bill proposing a drug testing 'trial' has been introduced, despite the universal opposition of professionals with experience in the field of addiction treatment to the previous two proposals.

The claim that this 'trial' should proceed because it has the potential to obtain evidence, so far lacking, that compulsory drug testing can be useful in addressing addiction or unemployment, we reject as disingenuous. This 'trial' is not proposed merely in the absence of evidence that it is likely to succeed, but in the presence of evidence to the contrary: **previous trials in New Zealand and the US indicate that the approach does not work.**

Major features of the proposed two year 'trial' will be as follows:

- New applicants for Newstart Allowance (called 'Jobseeker Allowance' from March next year) and Youth Allowance (other than students and apprentices) who reside in one of the three chosen locations will be required to agree to the possibility of selection as one of 5000 persons randomly selected for testing.
- Those testing positive for one of 5 illicit drugs will be subject to income management for a total of 24 months (regardless of any periods off payment) and be subject to further random drug testing.
- Testing positive at a further drug test will result in referral to a medical professional for assessment and possible referral for treatment.
- Those so referred will be required to complete specified treatment activities or go on a wait list to do so as part of their mutual obligation requirements.
- Failure to comply with any aspect of the regime without reasonable excuse will result in payment suspension followed by 4 week waiting period. The consequences of addiction will not excuse failure to comply.

The stated justification for the 'trial' in the Explanatory Memorandum is:

Substance abuse is a major barrier to social and economic participation and is not consistent with community expectations around receiving taxpayer funded welfare

payments. The aim of the trial is to improve a recipient's capacity to find employment or participate in education or training by identifying people with drug use issues and assisting them to undertake treatment. The trial will test the effectiveness of decreasing substance abuse through random drug testing, in an effort to improve employment outcomes for trial participants.

However, in the Human Rights Implications attached to that Memorandum, the purposes of the 'trial' are given as to:

- maintain the integrity of, and public confidence in, the social security system by ensuring that tax-payer funded welfare payments are not being used to purchase drugs or support substance abuse;
- provide new pathways for identifying recipients with drug abuse issues and facilitating their referral to appropriate treatment where required.

The first point refers to the imposition of income management as a way of reducing potential for abuse of tax-payer funds. The second is a claim that random testing will create needed opportunities for referral to treatment – in addition to establishing penalties for those who either refuse to agree in principle or practice to random testing or refuse to comply with any referral or program for treatment.

Our objections to this Bill, over and above those set out in our previous submissions, are set out below.

1. Welfare conditionality is a 'false friend' of those seeking to improve beneficiary choices

There can be no objection to the goal of improving the ability and propensity of welfare beneficiaries to take advantage of opportunities to make life better for themselves and their families.

The moral arguments in favour of conditionality are that of preventing moral hazard – placing people in a position where morally unacceptable choices are made too attractive – and fiscal rectitude – ensuring that the welfare system remains affordable by reining in expenditure growth.

On the latter question, Australia has one of the world's most tightly targeted welfare systems and individuals must demonstrate a high level of relative disadvantage to be eligible for the OECD's lowest level of income support payments.¹ Concerns about sustainability do not appear warranted in respect of working age welfare expenditure in Australia at present.²

The value of working age income support payments has fallen, not only below a level where it could be regarded as a tempting alternative to income from work, but to a level well below

¹ See Henriques-Gomes L ['One of the worst': how Newstart compares to unemployment payments in rest of the world](#) Tue 23 Jul 2019 04.00 AEST, *The Guardian* Australia

² See Whiteford P (2015) [Is welfare sustainable?](#) , *Inside Story*, and Klapdor M & Arthur D (2016) [Welfare—what does it cost?](#) Parliamentary Library, APH

an accepted poverty line,³ a level where chronic financial stress is likely to have adverse effects on decision-making.⁴ Moreover, as the ratio of job vacancies to the number of unemployed and underemployed has continued to rise, ever more stringent eligibility conditions have been imposed.

Moral concerns may be adduced to justify extending welfare conditionality to measures such as involuntary⁵ drug testing and income management on the basis that they are *prima facie* necessary to discourage poor choices that will prolong an undesirable state of dependency.

However, it is also a moral question to consider how well such measures will serve the moral purpose assigned to them.

If the imposition of these measures did not result in improved employment prospects, or even harmed the health, well-being and self-efficacy of the unemployed this would represent a betrayal of moral purpose, a betrayal exacerbated by the diversion of scarce resources away from evidence-based support programs that could have improved the health, behaviour, skills or self-efficacy of the unemployed.

Moral considerations demand the use of high-quality evidence in all aspects of social policy, even when that evidence runs counter to our intuitions. Welfare conditionality is a false friend because it promises what it cannot deliver. A longitudinal UK study of welfare conditionality has demonstrated that it does not improve employment prospects or solve behavioural problems, and, can in fact be counter-productive.⁶

2. The proposed 'trial' does not meet the requisite scientific standards.

A real trial would require:

- Experimental and control groups that are either stratified to ensure comparability of socio-demographic characteristics likely to affect the outcome of interest or sufficiently large to make it unlikely that the outcome is influenced by systematic differences between experimental and control groups in important variables.
- Precise specification of the experimental treatment;
- Precise specification of the outcome that treatment is intended to achieve within the relevant observation period.
- Evidence that the experimental treatment (compulsory, random testing followed by further testing and compulsory referral if addiction is assessed) is capable of leading to the desired outcome and an experimental design that enables the strength of the association between the experimental treatment and the outcome to be assessed.

³ The OECD poverty threshold is 50% of the median wage adjusted to take into account household size and composition. According to ACROSS/UNSW Poverty in Australia (2018) this level would be \$433 a week for a single adult living alone; or \$909 a week for a couple with 2 children.

⁴ See [How Low Income Affects Routine Decisions](#) February 21, 2018, *Association for Psychological Science*

⁵ Signing an agreement under duress does not make it voluntary – a person who would otherwise be eligible for unemployment benefits in Australia would not be in a position to withhold agreement to drug testing were it to become a condition of benefit receipt.

⁶ Dwyer P [Final findings: Overview](#) May 2018, Summary of findings of final report on study: Welfare Conditionality: Sanctions, Support & Behaviour Change, Economic Social & Research Council.

The proposed 'trial' as specified does not meet these criteria.

In particular, if the incidence of drugs detected in the experimental group – the randomly drug tested group - falls, we will not be able to attribute that fall to drug testing or income management, or participation in treatment, as we will have no way of comparing the independent impact of each component, nor will we have any way of comparing the treatment and control groups – as the latter will not be drug tested at all.

If welfare receipt drops more in the experimental group relative to the control, we won't know if that is because the experimental group has achieved good employment outcomes or simply dropped out of the workforce – unless both groups are followed up for data on this important question. Further, without baseline and follow-up measures of health and well-being on both groups, we will not know if the experimental treatment group is actually better off - or has suffered harm – as a result of treatment.

The failure to establish proper trials that would have enabled evaluation of the effect of income management has been severely criticised by researchers, service providers and the Australian National Audit Office.

3. Research on human subjects needs to comply with relevant ethical standards

The Parliament has a moral responsibility to ensure that when it authorises research on human subjects that the proposal complies with the relevant ethical standards.

The relevant standards are set out in the National Statement on Ethical Conduct in Human Research.⁷ They apply to governments as well as to researchers and are developed jointly by the National Health and Medical Research Council, the Australian Research Council and Universities Australia.

These standards provide important moral boundaries that help protect the health and well-being of our compatriots from experimentation that on evidence already available is likely to cause them unnecessary harm.

See Uniting Care Australia's submission to the Inquiry into Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018⁸ for a detailed analysis of the application of the standards to income management 'trials'.

We submit that not only do the proposed 'trials' not meet scientific standards, they need to be assessed by an independent expert body for compliance with relevant ethical standards.

On the available evidence about the ineffectiveness of drug testing trials conducted in the US and New Zealand we believe that a research proposal based on the current Bill would not be given ethical approval.

⁷ [National Statement on Ethical Conduct in Human Research \(2007\) - Updated 2018](#)

⁸ Submission 81 to the Inquiry available at

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/CDCTrialExpansion/Submissions

Conclusion

UnitingCare Australia believes that the moral concerns of those who propose and support this Bill would be more effectively addressed by cutting back on existing conditionality requirements that have been shown to be ineffective or even counter-productive rather than adding further requirements in the form of random drug testing. Real moral concerns about the need to improve choice-making amongst the poor should motivate the selection of interventions based on hard evidence about what really works to help them, in particular the very small proportion of them who are likely to be addicted to, rather than occasionally using, illicit drugs. No-one who works in the field of addiction can point to a successful involuntary treatment program. It would be a betrayal of the moral intent behind this Bill to pass it and implement it.

We thank the Committee for its consideration of our views and would welcome the opportunity of providing further information on any of the issues raised in this submission.

Claerwen Little National Director

UnitingCare Australia