

## Submission:

# *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019*

The Centre for Excellence in Child and Family Welfare (the Centre) welcomes the opportunity to provide a submission on the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019* for consideration by the Senate Community Affairs Legislation Committee.

The Centre is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria working across the continuum of child and family services.

Our members work directly with children, parents, carers, and families experiencing disadvantage and hardship and see firsthand the impacts that social security policy can have on their wellbeing and long term prospects. The Centre is a member of a network, Treating Families Fairly, whose members engage in research and collective advocacy on these issues.

The Centre does not support this Bill and strongly urges the Committee to recommend it be opposed.

In this submission, we will focus on the:

- purpose and assumptions of the Bill
- trial's potential to cause harm
- cost to the community and the taxpayer, and
- evidence for alternative approaches.

### **Purpose and assumptions of the Bill**

The explanatory memorandum for the Bill states 'substance abuse is a major barrier to social and economic participation and is not consistent with community expectations around receiving taxpayer funded welfare payments'.<sup>1</sup> The key objective of the Bill is 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'.<sup>2</sup>

Use of illicit drugs is widespread in the Australian community, with 42 per cent of Australians having used an illicit drug at least once in their lifetime.<sup>3</sup> The focus on and targeting of people receiving social security payments apparent in this Bill is unwarranted, unfair and harmful. Despite stating 'the Government considers there is no safe level of illicit drug usage, whether recreational or not. Tax-

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<sup>1</sup> Explanatory Memorandum, Social Services Legislation Amendment (Drug Testing Trial) Bill 2019 (Cth), p. 3.

<sup>2</sup> Explanatory Memorandum, Social Services Legislation Amendment (Drug Testing Trial) Bill 2019 (Cth), p. 27.

<sup>3</sup> Australian Institute of Health and Welfare 2017, *National Drug Strategy household survey 2016: detailed findings*, AIHW, Canberra.

payer funded welfare payments should not be used to fund illicit drug use - occasional or otherwise',<sup>4</sup> the government has not attempted to implement measures targeting the broader community and their expenditure of tax relief funds. This suggests an assumption that people receiving social security payments are an 'underclass' of citizens requiring behaviour monitoring and modification. In the Centre's view, this constitutes unethical, rather than ethical, paternalism and is not an effective means to build self-sufficiency.

The Department of Social Services website states that one purpose of the trial is to 'ensure the welfare system continues to provide a safety net for those who need it most'.<sup>5</sup> This implies that people who use illicit drugs are not in need of, or not worthy of, support. Drug dependence is a health issue, not a social security issue. Everyone deserves appropriate support to address the problems they face and to overcome barriers to contribution and productivity.

### Potential to cause harm

The Centre urges the Committee to consider the likely ramifications of this legislation when considering its recommendations. The Centre echoes concerns regarding potential harm raised by experts and others in the course of the previous inquiry on this matter, namely:

- Labelling people receiving social security as 'potential drug users' is likely to increase stigma, shame and marginalisation, which cause health inequalities and may act as a deterrent to accessing support
- People in need of social security may be deterred from accessing support to avoid detection, leading to an increase in levels of poverty and destitution
- Deterring people from accessing social security or cutting them off from payments will increase vulnerability and may result in an increase in crime-related harm
- Increasing the demand on services already unable to meet demand from voluntary clients will further limit timely support for those who want it
- People may switch to less detectable drugs with a higher risk of harm
- Protections, including privacy and procedural fairness, are potentially limited by inclusion of significant matters in a legislative instrument, allowing for significant discretion by the Secretary and a contracted provider
- The trial adds an additional layer of stress involved in accessing social security for those already impacted by disadvantage and poverty, further taxing the cognitive bandwidth needed to seek and secure work.<sup>6</sup>

The Parliamentary Joint Committee on Human Rights examined the drug testing trial when it was first proposed in the *Social Services Legislation Amendment (Welfare Reform) Bill 2017* and described limitations on the rights of people to social security and an adequate standard of living, privacy, bodily integrity, and equality and non-discrimination. The Committee expressed serious concerns regarding the trial's ability to effectively achieve legitimate objectives, stated it was unlikely to be proportionate

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<sup>4</sup> Australian Government 2018, *Australian Government response to the Senate Community Affairs Legislation Committee report: inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018*, Australian Government, Canberra.

<sup>5</sup> Department of Social Services 2018, Drug testing trial, viewed 25 September 2019, <<https://www.dss.gov.au/benefits-payments/drug-testing-trial>>.

<sup>6</sup> Australian Government 2018.

to these objectives and found that it is not the least rights restrictive means available to achieve the objectives.<sup>7</sup> The Centre shares these concerns, which the government has not been able to adequately address or mitigate.

We also note the inquiry running concurrently with this one on the *Adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia*. The government states that the needs of children and families will not be put at risk by repayment of drug test costs due to receipt of Family Tax Benefit and child care subsidies,<sup>8</sup> however we know from our member organisations that these families are already struggling to survive on their meagre incomes and this assertion is simply not accurate. Our recent survey of child and family service providers in Victoria showed that single mother families experience high levels of financial difficulty and are struggling day to day to meet even the most basic needs of themselves and their children, even when receiving the full amount of their various payments – an issue this approach fails to recognise.<sup>9</sup>

We strongly oppose the use of income management in Australia's social security system. Please refer to our submission to this Committee on the *Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019* which outlines our key concerns.<sup>10</sup>

### Cost to the community and the taxpayer – evidence for alternative approaches

By responding to taxpayer concerns that taxes are being spent on illicit drugs, the government is missing opportunities to implement cost-effective measures with a proven ability to produce positive outcomes for the community. For example, the government's approach does not acknowledge the cost to the taxpayer incurred through the criminal justice system response to personal drug use. These costs far outweigh money lost to illicit drug use. **The community has the right to expect that taxpayer funds are being used to address drug-related harm in the most effective way possible.** Research indicates that decriminalising drug use is a cost-effective approach that can contribute to employment prospects.<sup>11</sup>

Expert evidence and opinion extensively outlined in the course of the two previous inquiries relating to this Bill show that a range of prevention initiatives, supply and harm reduction measures, and availability of quality treatment are proven methods for reducing drug dependence and drug-related harm. Drug testing welfare recipients, on the other hand, has already been shown to be ineffective and unlikely to result in increased employment, decreased drug use or improved access to treatment.<sup>12</sup> An alternative approach for government could therefore be to engage in widespread community education. This would focus on the economic need for a public health approach to drug

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<sup>7</sup> Parliamentary Joint Committee on Human Rights 2017, *Human rights scrutiny report: report 11 of 2017*, Parliament House, Canberra.

<sup>8</sup> Explanatory Memorandum, Social Services Legislation Amendment (Drug Testing Trial) Bill 2019 (Cth), p. 29.

<sup>9</sup> Tennant, D & Bowey, K (forthcoming), *The impact of social security reforms on single mothers and their children*, Centre for Excellence in Child and Family Welfare, Melbourne.

<sup>10</sup> Centre for Excellence in Child and Family Welfare 2019, Submission 15, <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/IncomeManagementCashless/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IncomeManagementCashless/Submissions)>.

<sup>11</sup> Hughes, C, Ritter, A, Chalmers, J, Lancaster, K, Barratt, M & Moxham-Hall, V 2016, *Decriminalisation of drug use and possession in Australia: a briefing note*, National Drug and Alcohol Research Centre, UNSW, Sydney.

<sup>12</sup> Australian National Council on Drugs (ANCD) 2013, *ANCD position paper: drug testing*, ANCD, Canberra.

dependence to shift community attitudes and norms about addressing drug-related harm in favour of approaches supported by the evidence. Efficient use of taxpayer funds is in the interests of the collective good.

We note the Commonwealth Government's commitment to the concept of the 'social contract' and accompanying mutual obligations and believe that such a contract can be upheld without the need to implement a potentially costly drug testing regime. The availability of drug treatment in Australia remains limited. It is estimated that across Australia 'between 200,000 and 500,000 more people would be in treatment if demand were to be fully met'.<sup>13</sup> Australia needs to invest far more than we currently do in prevention initiatives, including improvements in social conditions, and initiatives to facilitate better access to drug treatment, to reduce harm, strengthen family relationships and ensure the best interests of children are upheld.

### **Recommendation**

The Committee recognises the profound harm that this legislation is likely to cause already vulnerable individuals and their families and strongly opposes this Bill.

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<sup>13</sup> Ritter, A, Berends, L, Chalmers, J, Hull, P, Lancaster, K & Gomez, M 2014, *New horizons: the review of alcohol and other drug treatment services in Australia*, National Drug and Alcohol Research Centre, UNSW, Sydney, p. 191.