



Community and Public Sector Union

Lisa Newman - CPSU Deputy National President

10 April 2017

Committee Secretary
Senate Standing Committees on Community Affairs
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Dear Committee Secretary

Re: Social Services Legislation Amendment (Drug Testing Trial) Bill 2018

As the primary union representing Department of Human Services employees, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates.

The CPSU continues to have serious concerns about the proposal to introduce mandatory drug testing for 5,000 new recipients of Newstart Allowance and Youth Allowance (other). Mandatory drug testing will not deal with the issues that lead to substance abuse and are an ineffective use of scarce resources. The application of mandatory drug testing is also likely to lead to increased customer aggression against DHS staff.

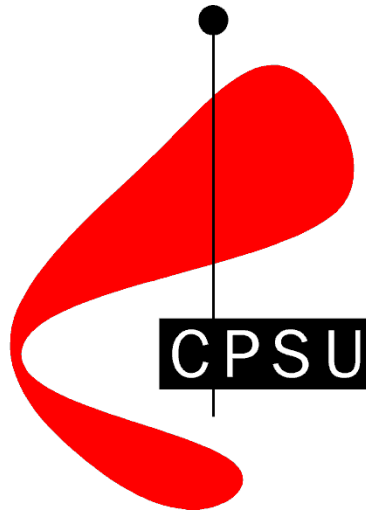
The CPSU previously provided a submission to the inquiry into the Social Services Legislation Amendment (Welfare Reform) Bill 2017. The submission provides detail about the concerns of members regarding mandatory drug testing which remain under this proposal. A copy of this submission is attached.

The CPSU is happy to provide information on the matters raised in this submission and supplementary information on other relevant issues.

For further information, please contact [REDACTED], Policy and Research Officer via email [REDACTED] or on [REDACTED]

Regards,

Lisa Newman
Deputy National President
Community and Public Sector Union



**Community and Public Sector Union
(PSU Group) Submission:**

**Social Services Legislation
Amendment (Welfare Reform) Bill 2017**

August 2017

Inquiry into the Social Services Legislation Amendment (Welfare Reform) Bill 2017

The CPSU welcomes the opportunity to make a submission to this inquiry into the Social Services Legislation Amendment (Welfare Reform) Bill 2017.

The Social Services Legislation Amendment (Welfare Reform) Bill 2017 contains a range of disparate changes, many of which would touch on the lives of CPSU members and the wider community. Rather than focusing on the underlying causes that lead to long term reliance on social security and working with staff and clients on solutions, it is the view of the CPSU that these changes focus on making access to social security much more difficult.

This submission does not comment on all the changes proposed in the Bill but instead focuses on the changes that the CPSU believes will pose the most risk to the health, safety and well-being of staff and clients. It does not, however, reflect an endorsement of the other changes proposed in the Bill.

The CPSU is unconvinced that the Government has clearly identified the problem that this Bill seeks to address, considering the primary aim of social security is to ensure a 'minimum adequate standard of living'.¹ The Bill's single minded focus on compliance and obligations misses an opportunity for the government to rethink its approach to help customers overcome barriers to participation and put in place measures that mean that individuals are not reliant on social security for the longer term.

The CPSU has serious concerns about the introduction of mandatory drug testing. This will not deal with the issues that lead to substance abuse and are an ineffective use of scarce resources. The application of this policy is likely to be increased customer aggression against DHS staff. There has been no whole of government consideration of the impact of these changes at an operational level and the effect it would have on the level of resources required. There are also concerns that core government responsibilities may be outsourced. The use of income management is also punitive and it is likely to only stigmatise those on social security living in trial regions, potentially worsening the situation for staff.

The CPSU is also concerned about the impact increased penalties for non-compliance and making compliance arrangements less flexible may have on vulnerable clients, particularly given that DHS continues to be under resourced. This again fails to deal with the underlying issues that lead to these situations and punishes people for the challenges they face, rather than supporting them in overcoming them.

If the Government is genuine about these changes, a whole of government approach that considers the implications and the resources needed at an operational and planning level that provides the resources DHS needs is necessary to address increased workloads and minimise the potential for customer aggression.

¹ The Treasury (2010), *Australia's Future Tax System: Final Report*, p.485.

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Mandatory drug testing trial

The CPSU has significant concerns about the proposed two year trial in three regions involving mandatory drug testing for 5,000 new recipients of Newstart Allowance and Youth Allowance (other). According to the Bill's Explanatory Memorandum, new recipients after 1 January 2018 will be randomly selected to undertake a drug test. Recipients selected will be notified to attend an appointment at their local Department of Human Services office.

At the appointment, recipients will be notified they are required to undertake a random drug test. Drug testing of selected Newstart Allowance and Youth Allowance (other) recipients will be administered by third party drug testing providers contracted for that purpose. Documents from the Department that explain the trial state that the testing would coincide with random Department of Human Services (DHS) appointments, suggesting the tests would be done on-site², raising further concerns about customer aggression.

Recipients who test positive to this initial drug test will be subject to income management for a 24 month period and to further random tests during the trial period, the first of which will occur within 25 working days of the initial positive test.

Recipients who refuse to take the test (whether first or subsequent tests) will have their payment cancelled with effect from the day on which the refusal occurred, unless the person has a reasonable excuse. Suspension will not be an option.

There is little evidence is that mandatory drug testing and linking social security access to treatment will work. The Royal Australasian College of Physicians has stated that research and experience shows that drug testing has a poor record in modifying drug use and that forcing addicts into treatment is an effective way of combating illicit drug use.³ It is a simplistic, punitive approach to what are regularly complex individual circumstances that should be approached as a health issue.

Staff have raised serious concerns about failing in their duty to assist vulnerable Australians, indicating these changes could lead to a rise in homelessness and local crime if desperate and vulnerable people are cut off from payments.

Members have raised concerns about the existing process for identifying vulnerable clients and fear a harsher compliance regime will only make things worse. There currently are maximum periods that a customer can be identified as being 'vulnerable' for, which then must be reviewed. The review must be actioned within 28 days or the customer will no longer be identified as 'vulnerable.' One member stated that *"the process for maintaining and vulnerability indicators has been moved into Workload Management and there is a significant risk that these reviews are not being done."* The proposed changes in the Bill only increase the risk that vulnerable clients will have their payments suspended.

² Australian Government (2017, May). *Welfare Reform – 2017 Budget*. Retrieved from https://www.dss.gov.au/sites/default/files/documents/05_2017/budget_2017_-_welfare_reform_-_fact_sheet_for_web_0.pdf

³ RACP (2017, 31 May). RACP urges Government to abandon welfare drug testing plans. Media Release. Retrieved from <https://www.racp.edu.au/docs/default-source/default-document-library/media-releases/racp-urges-government-to-abandon-welfare-drug-testing-plans.pdf?sfvrsn=0>

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Customer aggression

The CPSU believes that mandatory drug testing will unfairly stigmatise those on social security payments and potentially lead to more customer aggression. The CPSU notes that while drug testing will not be conducted by DHS staff, drug testing will coincide with Department of Human Services' appointments.

While staff may not be conducting the testing, there are concerns they will bear the brunt of directing clients to drug testing and aggression when they inform clients their payments have been suspended due to positive drug tests. The CPSU understands that clients who test positive will be called into Centrelink if the person fails or they have a compliance failure and the recipient would have further random drug tests.

Job seekers who test positive to more than one drug test would be referred to a contracted medical professional for an assessment and treatment. Based on the recommendations, job seekers could have drug treatment activity included in their Job Plan, either alone or in combination with other approved activities.

Staff have informed the CPSU that people accessing social security who are drug affected tend also have mental health issues. It can be a volatile environment and there is a huge concern amongst staff about violence from dealing with people on ice. Even with a security guard in each service centre, not enough resources to handle that level of customer aggression. It has potential to more significantly affect staff in regional areas with less security and support.

Personal safety is a significant concern for DHS staff, with most security incidents involving DHS clients occurring in a "face-to-face environment". DHS staff are seen as the face of Government, and are often held responsible for implementing Government policy. This means when a policy is seen by a DHS client as adversely impacting their life, this can lead to an increase in customer violence and aggression towards DHS staff. While the overwhelming majority of DHS clients do not respond violently to decisions of this nature, many of them do become angry and desperate.

Whilst staff in service centres will obviously be most at risk from physical assault, both face-to-face and telephony services are likely see a spike in customer aggression. Staff have informed the CPSU that verbal abuse barely registers as an act of aggression any more and members tell the CPSU that they walk into work expecting to be verbally assaulted and/or spat on.

Customer aggression has already been on the rise with a CPSU survey last year finding that 62 per cent of respondents reported that customer violence was increasing.⁴ The CPSU notes that in December last year, the DHS released a tender notice calling for 'Advanced Customer Aggression Training', to be developed and delivered to the Department's staff as needed⁵, highlights how serious an issue customer aggression is. There is a concern that real incidents are higher than official

⁴ Noel Towell (2017, 23 January). Centrelink cooking the books on violence against public services, union says. *Canberra Times*. Retrieved from <http://www.canberratimes.com.au/national/public-service/centrelink-cooking-the-books-on-violence-against-public-servants-union-says-20170120-gtvdme.html>

⁵ Andrew Greene (2017, 4 January). Centrelink staff to receive 'customer aggression' training amid debt recovery backlash. *ABC*. Retrieved from <http://www.abc.net.au/news/2017-01-03/centrelink-staff-to-receive-customer-aggression-training/8159694>

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statistics as customer violence and aggression is being normalised and under reported. This will only get worse under the Government's proposal for mandatory drug testing.

Declining staff numbers in DHS are also impacting on the support provided to jobseekers and their experience in accessing services. This can also increase the adverse client reaction to decisions that impact negatively on them or contribute to some of the delays that lead to lengthy processing times.

The CPSU is concerned that there is not a whole of government approach at an operational and planning level. There does not appear to be any consideration by the Government of wider impact of the changes in the Bill on the Department and any plans or additional resources needed to address the issues that will arise. The Department needs to conduct a managing risks process that includes an assessment of a safe staffing level for service users and staff. The significant cuts that have occurred raise concerns that the staffing profile may not be adequate to provide a safe working environment. Further, it should be primarily the responsibility of Government to bring in-house the support structures that social security recipients need rather than contracting out its responsibilities.

If the Government proceeds with these changes, DHS management must develop and implement a strategy in consultation with staff and their representatives to address the potential increase in customer aggression resulting from the new arrangements. The Department must learn from its past failure to do so. Changes such as the increased Online Compliance Initiative were introduced without DHS first consulting with staff. Consequently the organisation made a number of errors in how they set up the changes. Rather than repeat the mistakes of the past we suggest DHS conduct an assessment of its duty of care, ensuring reviews of workforce profiles and that allied health and social workers are part of the assessment process. Existing policies on workplace safety and security must be reviewed prior to changes to identify existing and possible risks to address likelihood of increased customer aggression. There also must be an assessment of whether the resources and operations of the Department are adequate from physical service centre layouts to staffing levels and professional credentials and case officers.

The CPSU notes that the Work and Income New Zealand office where two public servants were killed was ruled as unsafe for staff,⁶ highlighting the importance of taking issues of workplace safety at DHS seriously.

Everyone has the right to work in a safe and respectful environment. Providing additional customer aggression training and security guards does not address the root cause of the problem. It is clear that greater investment and improved staffing levels, in DHS in particular, must be part of the solution to address the growing levels of customer aggression.

⁶ Radio New Zealand (2016, 12 September). Ashburton WINZ office layout ruled unsafe. Retrieved from <http://www.radionz.co.nz/news/national/313096/ashburton-winz-office-layout-ruled-unsafe>

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Overseas experience

The CPSU notes the Minister's speech stated that *"there is little comparable evidence available to tell us whether this sort of intervention would be effective in the Australian welfare context."* The experience of drug testing regimes for social security recipients in New Zealand and United States suggest drug testing is expensive and few test positive to drugs. There is no evidence that it has helped those with substance abuse problems and only punishes those who were vulnerable.

In 2012, New Zealand introduced pre-employment drug testing requirements where Beneficiaries with work expectations will face sanctions if they refuse to apply for drug-tested jobs.⁷ From mid 2014 to the end of 2016, about 112,000 people were drug tested, and 531 tested positive - a rate of less than 0.5 per cent.⁸ The New Zealand Drug Foundation has labelled the scheme a waste of time.⁹

In the United States, drug tests only apply to those on the Temporary Assistance for Needy Families (TANF). According to recent research, these drug testing programs across 10 states cost almost a million dollars to uncover only 321 positive tests. In the state of Oklahoma, 1,328 were tested and 10 per cent (138) tested positive. The exercise cost US\$230,000 - about US\$1,600 per person¹⁰, money that would have been better spent on assistance from allied health professionals and social workers.

Income management

The CPSU is also concerned about the use of income management on social security recipients who test positive for drugs. Evidence shows that income management does not change behaviours and is also relatively expensive to administer.¹¹ The CPSU notes the final evaluation of NT income management programs *"could not find any substantive evidence of the program having significant changes relative to its key policy objectives, including changing people's behaviours...The evaluation found that, rather than building capacity and independence, for many the program has acted to make people more dependent on welfare."*¹²

⁷ Paula Bennett (2012, 28 August). Pre-employment drug testing for job seekers. *New Zealand Government*. Retrieved from <https://www.beehive.govt.nz/release/pre-employment-drug-testing-jobseekers>

⁸ Hack. (2017, 29 May). Welfare drug test: Which countries do it and has it worked anywhere? *Triple J*. Retrieved from <http://www.abc.net.au/triplej/programs/hack/which-countries-do-welfare-drug-testing-and-does-it-work/8570018>

⁹ Angela Lavoipierre (2017, 13 May). Federal budget 2017: New Zealand organisations say drug testing for welfare 'not the best use of funds'. *ABC AM*. Retrieved from <http://www.abc.net.au/news/story-streams/federal-budget-2017/2017-05-13/federal-budget-2017-nz-welfare-orgs-warn-drug-test-dole-policy/8523738>

¹⁰ Bryce Covert (2016, 20 February). Drug Testing Welfare Recipients Is A Popular New Policy That costs States Millions. Here Are The Results. *ThinkProgress*. Retrieved from <https://thinkprogress.org/drug-testing-welfare-recipients-is-a-popular-new-policy-that-cost-states-millions-here-are-the-cf829257ade0>

¹¹ Luke Buckmaster (2013, December). Does Income Management Work? *Parliamentary Library*. Retrieved from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/IncomeManagement

¹² J Rob Bray, Matthew Gray, Kelly Hand and Ilan Katz (2014 September). Evaluating New Income Management in the Northern Territory: Summary Report. *Social Policy Research Centre, UNSW Australia*. Retrieved from http://caep.r.anu.edu.au/sites/default/files/cck_misc_documents/2014/12/Evaluation%20of%20New%20Income%20Management%20in%20the%20Northern%20Territory_summary%20report.pdf

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A 2013 evaluation which was more positive, still found mixed results.¹³ The evaluation identified that income management led to considerable feelings of disempowerment and unfairness among those who are compulsorily subject to the scheme.¹⁴ Furthermore the study found that *'the early indications are that income management operates more as a control or protective mechanism than as an intervention which increases capabilities'*.¹⁵

Rather than helping, placing social security recipients on income management only further stigmatises them. Based on previous failed experience and the increased risk of aggression, the CPSU does not support mandatory drug testing or the expansion of income management.

Changes to compliance

CPSU members are concerned that vulnerable job seekers would be adversely affected by the proposed new compliance regime. The Bill proposes the removal of exemptions and changes to the compliance framework which increases the harshness of penalties and introduces a demerit system.

CPSU members have expressed the need for compliance arrangements to be flexible to take into account individual circumstances. Circumstances should always take into account job seeker vulnerability, remoteness, good attendance history at appointments, recent activity test exemptions reasons, and complex customer issues. The removal of exemptions makes it more difficult to take into account these individual circumstances to ensure vulnerable clients do not suffer.

Recipients who are part of the drug testing trial and fail to attend scheduled appointments with the Department of Human Services will have their payment suspended until they attend a rescheduled appointment. When the recipient attends a rescheduled appointment their payment will be resumed but will not be backdated to the date of suspension, unless the recipient has a reasonable excuse for not attending, such as unforeseen caring responsibilities. If no reasonable excuse exists, their payment will be payable from the date of their attendance at the rescheduled appointment. Members are concerned people will suffer as payments will not be backdated to the date of suspension unless there is reasonable excuse.

Furthermore, the Bill also increases activity requirements, making it more likely that recipients will become non-compliant and changes to claim provisions that mean claimants will no longer receive payments on the date they initially contacted DHS. These changes suggest it is primarily about making it harder to access social security rather than to assist clients rather than addressing existing issues of access, for example, how digital access and digital literacy was a problem for many DHS vulnerable clients.

¹³ Luke Buckmaster (2013, December). Does Income Management Work? *Parliamentary Library*. Retrieved from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/IncomeManagement

¹⁴ Luke Buckmaster (2013, December). Does Income Management Work? *Parliamentary Library*. Retrieved from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/IncomeManagement

¹⁵ Luke Buckmaster (2013, December). Does Income Management Work? *Parliamentary Library*. Retrieved from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/IncomeManagement

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CPSU members are also concerned that this legislation does not attempt to address the barriers that may be preventing jobseekers from securing employment, but in fact may add to them.

The need for more resourcing

The Department of Human Services has experienced significant job losses over the past five years. Between 2010-11 and 2016-17, DHS lost 5,547 ASL or 16 per cent of all ASL. On top of these job cuts, the 2016-17 Budget included cuts to the Department of Human Services of \$80 million over the forward estimates.¹⁶ The 2017-18 Budget indicates there will be a further loss of 1,188 ASL or 19 per cent since 2010-11. The scale of job losses and increasing workloads are affecting the services that are provided to the public:

- In 2016, 36 million calls did not get through to DHS call centres,¹⁷ up from 29 million in 2015. For the calls that did get through, wait times were, and continue to be, well over an hour.¹⁸
- Call wait times are the single largest cause of complaints made to DHS by customers.¹⁹
- Indigenous communities in remote communities can take more than a day to access telephony services.²⁰
- Customer aggression has risen, with increasing numbers of DHS offices requiring permanent security guards.²¹
- In 2016, there were reports of impacts of the delays in payments for Austudy and Youth Allowance resulting in extreme financial hardship and the deferment or abandonment of study.²²
- DHS staff have also reported significant delays of carer's payments that have put vulnerable families in a desperate position.
- Complaints have more than doubled from approximately 53,000 in 2007 to almost 114,000 in 2015-16, much of the increase being in the last two years with the top three complaints relating to telephone, internet and processing wait times.²³
- Only half of all customers have satisfactory perceptions of Centrelink.²⁴

¹⁶ Australian Government (2016, May). *Budget 2016-17 - Budget Paper No.2 - Part 2: Expense Measures*. Retrieved from http://www.budget.gov.au/2016-17/content/bp2/html/bp2_expense-21.htm

¹⁷ Noel Towell (2016, 21 October). Centrelink hangs up on 29 million calls, Senate estimates hears. *Canberra Times*. Retrieved from <http://www.canberratimes.com.au/national/public-service/centrelink-hangs-up-on-29-million-calls-senate-estimates-hears-20161020-gs7eci.html>

¹⁸ Noel Towell (2016, 21 October). Centrelink hangs up on 29 million calls, Senate estimates hears. *Canberra Times*. Retrieved from <http://www.canberratimes.com.au/national/public-service/centrelink-hangs-up-on-29-million-calls-senate-estimates-hears-20161020-gs7eci.html>

¹⁹ Commonwealth Ombudsman (2016). *2015-16 Annual Report*. Canberra

²⁰ Australian National Audit Office (2015, May). *Audit Report No.37: Management of Smart Centres' Centrelink Telephone Services*. Canberra

²¹ Marie Sansom (2015, 31 August). Centrelink staff deal with 24 aggressive incidents a day. *GovernmentNews*. Retrieved from <http://www.governmentnews.com.au/2015/08/centrelink-staff-deal-with-24-aggressive-incidents-a-day/>

²² Hack (2016, 21 April). Centrelink payments delayed up to four months, students freakin out. *Triple J*. Retrieved from <http://www.abc.net.au/triplej/programs/hack/students-waiting-four-months-centrelink-payments-delayed/7346960>

²³ Paul Henman (2017, 21 March). After the robodebt debacle, here's how Centrelink can win back Australians' trust. *The Conversation*. Retrieved from <https://theconversation.com/after-the-robodebt-debacle-heres-how-centrelink-can-win-back-australians-trust-74256>

²⁴ Paul Henman (2017, 21 March). After the robodebt debacle, here's how Centrelink can win back Australians' trust. *The Conversation*. Retrieved from <https://theconversation.com/after-the-robodebt-debacle-heres-how-centrelink-can-win-back-australians-trust-74256>

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A more stringent compliance regime and mandatory drug testing at appointments will only worsen the situation as more pressure will be placed on staff. If the Government is serious and this is not solely an attempt to make it harder to access social security, it should restore staffing levels at DHS with a particular focus on regional areas. The harsher compliance regime will increase workloads and require more face to face interactions. While DHS are currently undertaking a national recruitment round to employ more permanent staff, overall Average Staffing Levels are set to fall in 2017-18. More staff will be needed to meet increased compliance workloads.

Declared program participants

The CPSU has concerns that the Bill includes changes that could alter the application of social security law. The proposed Bill would give the Secretary the power to determine who a 'declared program participant' is, and how social security law applies to them through legislative instrument. The power is broad and could potentially be used to make other changes to how social security law applies.

The CPSU understands that it is the first time that certain social security recipients can be 'carved out' and treated differently in terms of how social security entitlement and compliance laws apply. It would create a potentially dangerous precedent and it may make it harder to prevent future changes to how basic social security rights and protections apply to the detriment of customers.

Conclusion

The CPSU supports a social security system that ensures all Australians can have a minimum adequate standard of living and is not punitive towards DHS clients. As such, the CPSU cannot support the Bill in its current form and recommends the Senate does not pass it.

The CPSU agrees the social security system can be improved, however, the proposed changes in the Bill only seek to make it more difficult to access social security. The CPSU recommends that the Government drops its planned mandatory drug testing trial, its expansion of income management and reconsiders the powers to allow the Departmental Secretary to alter the application of social security law.

Rather than just making it more difficult to access social security, the CPSU recommends the Government focuses on the addressing the barriers that may be preventing jobseekers from securing employment in the first place and provide resources to genuinely assist jobseekers.

Finally, the Government must also demonstrate it has taken a whole of government approach, addressing the increased workload and minimise the additional customer aggression that these changes will bring to the Department of Human Services. The CPSU calls on the Government to properly fund to the Department of Human Services for additional staff to reduce workloads to manageable levels, provide additional in-house support services to those with drug dependency and adequately funding treatment and support services.