



Australian Government

Australian Government Response to the
Senate Community Affairs Legislation Committee report:

Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018

July 2018

Introduction

The Australian Government welcomes the Senate Community Affairs Legislation Committee's (the Committee) report on its Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018 (the Bill).

The Bill establishes a two-year trial to randomly drug test 5,000 new recipients of Newstart Allowance and Youth Allowance (Other) with the following parameters:

- The drug trial areas are the local government areas of
 - Canterbury-Bankstown, New South Wales
 - Logan, Queensland
 - Mandurah, Western Australia
- The trial will apply only to certain illicit drugs (testable drugs) to be described in a legislative instrument, referred to as the Drug Test Rules.
- Trial participants who test positive to a testable drug will be placed on Income Management for a period of 24 months.
- Trial participants who test positive twice to a testable drug will be referred to a medical professional for treatment.
- Trial participants may request that a positive drug test sample be retested, but the trial participant will be required to pay an amount representing the cost of the retest if it returns a positive result.
- Failing to comply with a notice from the Secretary to provide a sample means a trial participant's payment is not payable and will be cancelled. The trial participant will be required to serve a 28 day drug test refusal waiting period before they are eligible to receive the payment again.

On 22 March 2018, the Senate referred the provisions of the Bill to the Committee for inquiry with the report tabled on 7 May 2018. The Committee received 52 submissions and held public hearings in Bass Hill, New South Wales on 23 April 2018 and Logan Central, Queensland on 24 April 2018.

Feedback to the Committee raised a range of issues including the evidence base for conducting the trial, consultation with relevant stakeholders, the basis for trial site selection, the availability of treatment services in the trial sites, the operation of the Treatment Fund, Income Management, privacy of information, and methodology of the trial.

Having considered the feedback, in its tabled report the Committee recommended that:

1. The Department of Social Services should establish and publish the evaluation strategy of the drug testing trial prior to the commencement of the trial.
2. The Department of Social Services publish the outcomes of the drug testing trial after it has been completed.
3. The Bill be passed.

The Australian Government supports all of the Committee's recommendations.

Dissenting reports by Australian Labor Party and Australian Greens Senators recommended that the Bill not be passed.

Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018

Recommendations made by the Committee

- 1. The Committee recommended that the Department of Social Services should establish and publish the evaluation strategy of the drug testing trial prior to the commencement of the trial.**

Government Response: Supported.

The Government will establish and publish an evaluation strategy prior to the trial's commencement. The Department of Social Services is preparing to engage and commission an independent consultancy to develop the evaluation strategy, subject to the passage of legislation. The evaluation strategy will provide the framework for the evaluation and will be designed in conjunction with stakeholders through submissions and workshops that will be held in each trial location to facilitate local input. An Evaluation Steering Committee will be established to guide the work of the evaluation and will include representatives with drug and alcohol expertise.

The evaluation strategy will aim to determine which aspects of the trial have been successful in addressing welfare recipients' substance abuse and barriers to employment. Broadly, the evaluation will examine the effect of the trial on identifying income support recipients with illicit drug misuse issues in the three trial sites, and supporting them to address those issues through Income Management and referral to treatment where appropriate.

- 2. The Committee recommended that the Department of Social Services publish the outcomes of the drug testing trial after it has been completed.**

Government Response: Supported.

The Department of Social Services will commission an independent consultancy to conduct an evaluation in parallel with the trial and will publish the findings after the conclusion of the trial.

- 3. The Committee recommended that the Bill be passed.**

Government Response: Supported.

The Bill will establish a trial of drug testing for 5,000 new recipients of Newstart Allowance and Youth Allowance (other) and will occur in three locations:

- Logan, Queensland
- Canterbury-Bankstown, New South Wales
- Mandurah, Western Australia.

The trial will assess the use of drug testing as a means of identifying job seekers with substance abuse issues that may be preventing them from finding a job, and supporting them to address these barriers through interventions such as Income Management and referral to appropriate treatment.

This trial is complemented by other measures that the Government has implemented through the *Social Services Legislation Amendment (Welfare Reform) Act 2018* to address substance misuse, including the removal of exemptions from mutual obligations due to drug and alcohol use and the tightening of reasonable excuses for non-compliance due to drug

and alcohol related reasons which commenced on 1 July 2018. Additionally, since 1 January 2018, drug or alcohol addiction treatments/interventions (including rehabilitation) can be undertaken as an approved activity that counts towards Annual Activity Requirements for Streams A and B job seekers. These measures are designed to support individuals with substance abuse issues to seek treatment and address these barriers to employment.

4. Dissenting Reports by the Australian Labor Party and the Australian Greens recommended that the Bill not be passed.

Government Response: Noted.

The following addresses key concerns raised in the dissenting reports.

Concerns about evidence to support the trial

The dissenting Senate Community Affairs Legislation Committee reports raised concerns about evidence to support the establishment of a trial of drug testing, claiming that the trial is not an evidence-based approach to assisting people with substance abuse disorders. Both dissenting reports criticise the trial as an overly simplistic approach to the complexity of drug use and unemployment.

The Government considers there is no safe level of illicit drug usage, whether recreational or not. Tax-payer funded welfare payments should not be used to fund illicit drug use – occasional or otherwise.

The model proposed in the Bill has not been tried before. This measure has been designed as a trial and a comprehensive evaluation will be undertaken in parallel with the trial to assess the effectiveness of drug testing in the Australian welfare context.

Concerns about the cost of the drug testing trial

The Australian Labor Party dissenting report raised concerns about the cost of drug testing and that the Government has not yet disclosed the cost of the trial.

Due to the commercial sensitivities associated with the procurement activities that will be required to implement the trial, the financial impacts of the drug testing trial are not for publication at this stage. The Government intends to approach the market to engage a suitable drug testing provider or providers to deliver the required range of drug testing methods, and under Government procurement requirements, will seek best value for money. Additionally, the evaluation of the trial will consider the effectiveness of drug testing in the Australian welfare context.

Concerns regarding availability of treatment services and workforce resourcing in trial sites

The dissenting Senate Community Affairs Legislation Committee reports raised concerns about the timely access to treatment for job seekers under the trial as well as the resource capability, including funding and staff, of treatment services in the trial sites to meet anticipated additional demand.

In order for the trial to be robust and successful, sites were selected with varying profiles and appropriate support services. Further to this, the Government is committing up to \$10 million for a dedicated treatment fund to provide additional funding for support services in the three locations. The \$10 million Treatment Fund comprises three elements:

- \$1 million for case management services to help people who return more than one positive test result during the trial to access the services and treatment identified in their treatment plan.
- Treatment providers in the trial sites will be assisted by \$3 million in funding to boost existing capacity and respond to any additional treatment demands.

- Approximately \$6 million in funding for accredited treatment support for individuals identified through the trial, in the event state or Commonwealth funded services are not able to be accessed in a timely manner.

The Australian Greens dissenting report also raised concerns about the expenses of opioid substitution therapy to job seekers as part of the trial. Under the trial, the financial costs of undertaking treatment recommended by a medical professional will not be borne by job seekers, but will be funded by state or Commonwealth funding or via the Treatment Fund in circumstances where services are not able to be accessed in a timely manner.

Concerns about unintended consequences

The dissenting Senate Community Affairs Legislation Committee reports raised concerns about unintended consequences as a result of the trial, such as increases in crime and the proliferation of undetectable drugs. The dissenting report by the Australian Greens also raised concerns about a potential increase in stigmatisation and poverty.

As far as possible these risks have been considered and are being managed through the design of the trial. For example, the Secretary must determine that a person should not be subject to Income Management under the trial if the Secretary becomes aware of circumstances that lead them to believe this would pose a serious risk to a person's mental or physical wellbeing.

Additionally, implementation committees involving local stakeholders will be established in each trial location to ensure that any issues are captured and understood in real time as the measure is rolled out. A comprehensive evaluation of the drug testing trial, including impacts and outcomes for job seekers, will commence during the trial period. This approach will capture any unintended consequences in real time, allowing them to be handled promptly. The Evaluation Steering Committee will include representatives with drug and alcohol expertise and will provide additional oversight.

Concerns about stakeholder engagement and lack of community support

The dissenting Senate Community Affairs Legislation Committee reports raised concerns about the engagement undertaken by the Government with relevant stakeholders.

The Department of Social Services has engaged with more than 170 stakeholders at more than 60 forums and meetings around Australia and in the three trial sites. Following the announcement of the drug testing trial in the 2017-18 Budget, the Department of Social Services met with local councils in each trial site, the relevant Primary Health Networks, national and state-based peak bodies for the community sector, employment service providers, and the drug and alcohol treatment sector. Public information sessions designed to inform stakeholders about the trial and facilitate feedback were conducted in each trial site by the Department of Social Services in partnership with the Department of Jobs and Small Business and the Department of Human Services. The Government has responded to the feedback received, for example by establishing the \$10 million in funding for a Treatment Fund to meet any additional treatment demands as a result of the trial, including the \$1 million for case management. This engagement will continue throughout the operation of the trial.