

Senate Community Affairs Legislation Committee

SUPPLEMENTARY BUDGET ESTIMATES – 22 OCTOBER 2015 ANSWER TO QUESTION ON NOTICE

Department of Human Services

Topic: WA Non-agency Payment Case

Question reference number: HS 171

Senator: Xenophon

Type of question: Written

Date set by the committee for the return of answer: 11 December 2015

Number of pages: 1

Question:

Please provide detail of any policy in relation to such ‘luxury or non-essential items’ determinations (with respect to non-agency payment determinations).

Answer:

There is no policy in relation to deciding whether an item is luxury or non-essential when making non-agency payment decisions.

Where parents pay through the department, they can make payments to each other, or to a third party. These are called Non Agency Payments (NAPs).

Sections 71 and section 71A of the *Child Support (Registration and Collection) Act 1988* require that both the payer and the payee intended a direct payment to be in satisfaction of an amount payable under the enforceable maintenance liability, for a NAP to be credited. The Child Support Guide, at 5.3.1 Non-agency Payments states that when deciding if a payment was intended to be in lieu of child support, and ‘*the parents disagree, the Registrar will seek evidence from both parents and decide on the basis of that evidence whether the relevant intention existed when the payment was made.*’

When a parent asks us to credit a payment for child support, the Registrar must make a decision whether to credit the payments or reject them. Where a decision is made to credit or not credit NAPs, parents are able to object and, if necessary, apply to the Administrative Appeals Tribunal.