

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**  
**BUDGET ESTIMATES 2017**

**Australian Human Rights Commission**

**Question No. BE17-071**

**Senator Siewert asked the following question on 25 May 2017:**

Senator SIEWERT: This is the issue that I want to start on as well. I want to go to the issue of addiction. My understanding of the act is, and certainly your website says:

The Act does not exclude disability that has been caused by a drug addiction.

My question is: is addiction classed as a disability, when you as a commission, and you as the commissioner, are assessing complaints and providing advice?

Mr McEwen: I will need to take that on notice, but I will say for now that medical disabilities do come under the Disability Discrimination Act.

Senator SIEWERT: Perhaps President Triggs may also need to jump in here, if she knows anything. Has anybody in the government, whether it be the Attorney-General, Minister Porter or Minister Tudge, sought your advice or the commission's advice either on the proposal to drug test applicants for income support or for the change to the impairment tables as they relate to disability caused by substance abuse?

Mr McEwen: I will have to take that on notice.

**The response to the honourable Senator's question is as follows:**

In *Marsden v HREOC* [2000] FCA 1619 (15 November 2000) the Federal Court held that dependence on opioids could constitute a disability within the meaning of the *Disability Discrimination Act 1992* (Cth).

The decision is available at: <http://www.austlii.edu.au/au/cases/cth/FCA/2000/1619.html>

The response to the honourable Senator's second question is no.