Dear Committee Secretary,

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia, and seeks to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

PHAA welcomes the opportunity to provide input to the Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019.

The Bill

The Bill seeks to introduce a 2-year trial involving mandatory drug testing for 5,000 new recipients of Newstart Allowance and Youth Allowance (other) in the Canterbury-Bankstown NSW, Logan Qld and Mandurah WA regions. The locations were selected considering a range of factors including crime statistics, drug use statistics and social security and health service availability. The trial locations are not in Community Development Program areas. All people making a claim for Newstart Allowance or Youth Allowance (other) after the commencement of the measure will be asked to acknowledge in the claim form, that they may be required to undergo drug testing as a condition of payment, if they reside in a trial site.

Five thousand new recipients will be randomly selected to undertake a drug test. Recipients who test positive for illicit drugs specified as part of the trial at the initial drug test will be subject to income management, and will be subject to further random tests during the trial period, including within 25 working days of the initial positive test. Recipients who test positive to more than one drug test in the 24-month period will be referred to a contracted medical professional for assessment. If the medical professional recommends treatment, the recipient will be required to complete the recommended treatment activities designed to address their substance ‘abuse’ as part of their Employment Pathway Plan (Job Plan). A recipient who refuses to take a test will have their payment cancelled immediately, for a minimum of 4 weeks. A recipient subject to drug assessment or treatment will have their payments suspended if they fail to attend a scheduled appointment, and payment will be cancelled if they have not attended after 13 weeks.
PHAA response to the Bill

This is the third attempt to get a drug testing trial bill passed (initially in 2017, then in 2018). The reason it did not pass in 2017 or 2018 remain unchanged in this version – it is not evidence-based and therefore will not achieve the desired policy outcomes of increased employment, decreased drug use and increased access to treatment for people with problematic substance use.

The minimal changes made are the inclusion of cocaine and heroin, plus the removal of the requirement to pay the cost of a positive drug test (unless the recipient disputed the initial results and requested a re-test). These changes to not materially alter the Bill, and do not address the lack of an evidence-base for the trial. From submissions received to the original 2017 Bill, 94% opposed the drug testing trial, leading to its exclusion from the larger Bill of which it was part. From submissions received to the 2018 Bill, 98% opposed the trial. Rarely does a Bill encounter such a resounding consensus of opposition from the experts and the community.

The current Bill does not appear to have taken due consideration of this opposition, with only minor amendments made, leaving the fundamental proposition unchanged. The lack of adequate consultation with experts on drug policy remains clear. This is reflected, for example, in the lack of inclusion of the most common drug of concern – alcohol. Additionally, the sector has noted the lack of infrastructure and workforce to meet current demand, let alone additional demand from this program, which would attempt to displace people who are voluntarily seeking treatment and have been on waiting list for some time.

The PHAA continues to strongly oppose this Bill as being punitive, coercive, ill-informed and destined for failure. I refer the Committee to our submissions made on the 2017 and 2018 Bills (attached).

PHAA recommends that the Bill be discontinued and that the funding for the proposed drug testing be re-allocated towards drug and alcohol treatment programs to fill the unmet need, allowing those with dependence issues a realistic chance of receiving the treatment they seek.

Please do not hesitate to contact Dr Ingrid Johnston, PHAA Senior Policy Officer, at jjohnston@phaa.net.au should you require additional information or have any queries in relation to this submission.

Yours Sincerely,

Terry Slevin
Chief Executive Officer
Public Health Association of Australia

David Templeman
President
Public Health Association of Australia


Public Health Association of Australia
submission on Social Services Legislation Amendment (Drug Testing Trial) Bill 2018

11 April 2018

Contact for recipient:
Committee Secretary
Senate Standing Committee on Community Affairs
A: PO Box 6100, Parliament House
Canberra ACT 2600
E: community.affairs.sen@aph.gov.au
T: (02) 6277 3515

Contact for PHAA:
Michael Moore – Chief Executive Officer
A: 20 Napier Close, Deakin ACT 2600
E: phaa@phaa.net.au T: (02) 6285 2373
# Contents

Preamble ...................................................................................................................................................... 5

The Public Health Association of Australia ................................................................................................. 5
Vision for a healthy population ..................................................................................................................... 5
Mission for the Public Health Association of Australia ............................................................................... 5
Introduction .................................................................................................................................................. 5

The Bill ....................................................................................................................................................... 6

PHAA Response to the Bill .......................................................................................................................... 6

Conclusion .................................................................................................................................................. 7

References .................................................................................................................................................. 8
Preamble

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Introduction

PHAA welcomes the opportunity to provide input to the Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2018. The reduction of social and health inequities should be an overarching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should provide a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
The Bill

The Bill provides for the trialling of a new approach to identifying job seekers with substance abuse issues by drug testing 5,000 new recipients of Newstart Allowance and Youth Allowance in Canterbury-Bankstown (NSW), Logan (Queensland) and Mandurah (Western Australia) over 2 years. The stated aim of the trial is to improve a recipient’s capacity to find employment or participate in education or training by identifying people with drug use issues and assisting them to undertake treatment. The trial locations were chosen considering a range of factors including crime statistics, drug use statistics, social security data and health service availability, and are not located in Community Development Program areas.

PHAA Response to the Bill

The separation of this proposal from the Social Services Legislation Amendment (Welfare Reform) Bill 2017 does not improve it. With no substantive difference in content between Schedule 12 from the previous Bill and the current bill, PHAA’s position remains one of strong opposition to the drug-testing of welfare recipients, as outlined in our submission to the Inquiry into the previous Bill. It is likely to be an ineffective use of taxpayer money, which exacerbates rather than eases challenges faced by jobseekers to enter or return to the workforce.

The Minister’s Second Reading speech of the 2017 Bill noted that drug-testing welfare recipients is used overseas, but “there is little comparable evidence available to tell us whether this sort of intervention would be effective in the Australian welfare context”. In fact, the limited available evidence suggests that it will not be effective, and the Government’s own Australian National Council on Drugs (ANCD) advised against implementation in 2013 citing evidence that it is more likely to increase than decrease harms and costs.

Evidence shows that mandated treatment for drug and alcohol dependence does not reduce drug use or incarceration. Factors such as motivation for treatment, self-efficacy and peer support are more likely to predict success, but these are not factors which would be promoted and supported by the proposed bill.

This proposal may also have unforeseen negative consequences for jobseekers the Government is not specifically targeting in this intervention. The requirement to agree to undergo random drug testing is likely to be refused by some jobseekers on the basis that it is unnecessarily stigmatising them where no drug or alcohol dependence issues exist. Genuine jobseekers may be deterred from seeking the support and assistance available to them through Centrelink and therefore be unfairly disadvantaged through no fault of their own, but simply because they are actively avoiding being labelled as a potential drug user.

Despite the proposal being separated into a distinct Bill, several issues have still not been adequately addressed in the proposed legislation, which suggest that the trial will be unsuccessful. Firstly, there is no mention of additional funding to be provided for drug and alcohol treatment services. Currently in Australia, less than half of those seeking such treatment are able to access it. This scheme is specifically designed to increase the pressure on services, by referring those who would not otherwise be in treatment, but makes no attempt to ensure those services will be available. Secondly, there are no details provided on who will be a ‘contracted medical professional’ jobseekers would be referred to for treatment assessment. Will these professionals have expertise in drug and alcohol treatment? Further, when recommendations for treatment are made, how specific are those recommendations as to the type and length of treatment required, and what are the obligations on Centrelink to follow these recommendations?

If the assessor recommends residential treatment but only weekly counselling is available, what happens? Thirdly, there are questions surrounding the testing itself. How sensitive will the testing be – will it be able
to determine the difference between traces of cannabis consumed three weeks ago, and medicinal cannabis with low level THC? Finally, the bill makes no distinction between occasional and dependent drug use. Someone who records a positive test for THC from very occasional use of cannabis for example, would be referred to the assessor, wasting precious resources.

This proposal is inconsistent with the Australian National Drug Strategy's principle that drug and alcohol dependence are health issues. Penalising jobseekers with drug and alcohol dependence issues through removal of welfare payments will increase disadvantage not only to the jobseeker themselves, but also to any dependents they may be caring for. There is no mention in the Bill of how parents in this situation are supposed to maintain the basic necessities of life for their children during the 4-week period until payments may be restored. $535.60 per fortnight (the maximum jobseeker allowance) does not leave room for savings, so any gap in payments will in reality be a gap in the availability of any money.

It is disappointing that the feedback provided on the previous Bill does not appear to have been taken into consideration in the development of the current Bill, reflecting an apparent lack of consultation with experts on drug policy.

PHAA recommends that the Bill be discontinued, and the funding for the proposed drug testing be re-allocated towards drug and alcohol treatment programs to fill the unmet need, allowing those with dependence issues a realistic chance of receiving the treatment they seek.

Conclusion

PHAA strongly opposes this Bill. We are particularly keen that the following points are highlighted:

- Drug and alcohol dependence must be treated as a health issue, and not linked with income support
- There is no evidence that drug testing welfare recipients, and mandating treatment would be successful
- The funds required to support these measures should be re-directed towards increasing the availability of drug and alcohol treatment services in Australia.

The PHAA appreciates the opportunity to make this submission and the opportunity to comment on the proposed bill.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.
References

Public Health Association of Australia
submission on Social Services Legislation Amendment (Welfare Reform) Bill 2017

Contact for recipient:
Committee Secretary
Senate Standing Committee on Community Affairs
A: PO Box 6100, Parliament House
Canberra ACT 2600
E: community.affairs.sen@aph.gov.au
T: (02) 6277 3515

Contact for PHAA:
Michael Moore – Chief Executive Officer
A: 20 Napier Close, Deakin ACT 2600
E: phaa@phaa.net.au T: (02) 6285 2373

4 August 2017
Contents

Introduction ........................................................................................................................................... 11

The Public Health Association of Australia ........................................................................................ 11
Vision for a healthy population ........................................................................................................... 11
Mission for the Public Health Association of Australia ..................................................................... 11
Preamble ............................................................................................................................................... 11

PHAA Response to the bill .................................................................................................................. 12

Schedule 12: Establishment of a drug testing trial .............................................................................. 12
The proposal ......................................................................................................................................... 12
The issues ............................................................................................................................................ 12

Schedule 13 – Removal of exemptions for drug or alcohol dependence ............................................ 13
The proposal ......................................................................................................................................... 13
The issues ............................................................................................................................................ 13

Schedule 14 – Changes to reasonable excuses ................................................................................... 14
The proposal ......................................................................................................................................... 14
The issues ............................................................................................................................................ 14

Conclusion .......................................................................................................................................... 15

References ........................................................................................................................................... 16
Introduction

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Preamble

PHAA welcomes the opportunity to provide input to the Senate Committee inquiry into the Social Services Legislation Amendment (Welfare Reform) Bill 2017. The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
PHAA Response to the bill

Schedule 12: Establishment of a drug testing trial

The proposal

Schedule 12 of the Bill would establish a 2-year trial of mandatory drug testing from 1 January 2018 for up to 5,000 new welfare recipients, in 3 regions. A person making a claim for Newstart Allowance or Youth Allowance in the regions will be required to agree that they may be subject to drug testing as a condition of their payment. Refusal to agree to the testing would be grounds for their application for welfare being rejected.

Jobseekers will be randomly selected for drug testing and provided with an appointment date. Refusal to undertake the test will result in payments being cancelled immediately (unless they have a ‘reasonable excuse’) and will need to reapply 4 weeks later.

An initial positive test will result in income management for 24 months and further drug testing. A second positive test will result in referral to a contracted medical professional for assessment. If the assessment recommends treatment, the person will be required to participate in treatment (and possibly other usual requirements such as job search activities) to continue receiving their payments. Treatments may include rehabilitation, counselling or ongoing drug testing. Where treatment is not available, the jobseeker will be placed on a waiting list.

Jobseekers who return a second or subsequent positive drug test will be required to repay the cost of the tests through their welfare payments, up to a maximum of 10% of their payment amount. Jobseekers may dispute the result of a test and request another, but will be liable for the cost of the re-test if it is positive.

Jobseekers who fail to attend any scheduled appointments with Centrelink will have their payments suspended until they attend a rescheduled appointment. Payments will then re-start but will not be backdated unless the person has a ‘reasonable excuse’.

The issues

The PHAA strongly opposes the proposal to drug-test welfare recipients because it is likely to be an ineffective use of taxpayer money, which exacerbates rather than eases challenges faced by jobseekers to enter or return to the workforce.

The Minister’s Second Reading speech notes that drug-testing welfare recipients is used overseas, but “there is little comparable evidence available to tell us whether this sort of intervention would be effective in the Australian welfare context”. In fact, the limited available evidence suggests that it will not be effective,¹ and the Government’s own Australian National Council on Drugs (ANCD) advised against implementation in 2013 citing evidence that it is more likely to increase than decrease harms and costs.²

Evidence shows that mandated treatment for drug and alcohol dependence does not reduce drug use or incarceration.³ Factors such as motivation for treatment, self-efficacy and peer support are more likely to predict success,⁴ but these are not factors which would be promoted and supported by the proposed bill.

This proposal may also have unforeseen negative consequences for jobseekers the Government is not specifically targeting in this intervention. The requirement to agree to undergo random drug testing is likely to be refused by some jobseekers on the basis that it is unnecessarily stigmatising them where no drug or alcohol dependence issues exist. Genuine jobseekers may be deterred from seeking the support and
assistance available to them through Centrelink and therefore be unfairly disadvantaged through no fault
of their own, but simply because they are actively avoiding being labelled as a potential drug user.

Several issues have not been adequately addressed in the proposed legislation, which suggest that the trial
will be unsuccessful. Firstly, there is no mention of additional funding to be provided for drug and alcohol
treatment services. Currently in Australia, less than half of those seeking such treatment are able to access
it. This scheme is specifically designed to increase the pressure on services, by referring those who would
not otherwise be in treatment, but makes no attempt to ensure those services will be available. Secondly,
there are no details provided on who will be a ‘contracted medical professional’ jobseekers would be
referred to for treatment assessment. Will these professionals have expertise in drug and alcohol
treatment? Further, when recommendations for treatment are made, how specific are those
recommendations as to the type and length of treatment required, and what are the obligations on
Centrelink to follow those recommendations? If the assessor recommends residential treatment but only
weekly counselling is available, what happens? Thirdly, there are questions surrounding the testing itself.
How sensitive will the testing be – will it be able to determine the difference between traces of cannabis
consumed three weeks ago, and medicinal cannabis with low level THC? Finally, the bill makes no
distinction between occasional and dependent drug use. Someone who records a positive test for THC from
very occasional use of cannabis for example, would be referred to the assessor, wasting precious resources.

Schedule 12 is inconsistent with the Australian National Drug Strategy’s principle that drug and alcohol
dependence are health issues. Penalising jobseekers with drug and alcohol dependence issues through
removal of welfare payments will increase disadvantage not only to the jobseeker themselves, but also to
any dependents they may be caring for. There is no mention in the Bill of how parents in this situation are
supposed to maintain the basic necessities of life for their children during the 4-week period until payments
may be restored. $535.60 per fortnight (the maximum jobseeker allowance) does not leave room for
savings, so any gap in payments will in reality be a gap in the availability of any money.

PHAA recommends that Schedule 12 be removed from the bill, and the funding for the proposed drug
testing be re-allocated towards drug and alcohol treatment programs to fill the unmet need, allowing those
with dependence issues a realistic chance of receiving the treatment they seek.

**Schedule 13 – Removal of exemptions for drug or alcohol dependence**

**The proposal**

Welfare recipients with participation requirements may request temporary exemptions from the
requirements where they are incapacitated due to sickness or injury (with a medical certificate) or where
there are special circumstances such as a personal crisis.

Schedule 13 would prevent these exemptions being granted where the reasons is wholly or predominately
attributable to a drug or alcohol dependency or misuse, including sickness or injury, or special
circumstances such as eviction.

This Schedule is separate from the Schedule 12 drug testing trial, does not have a finish date and will apply
to all jobseekers.
The issues

Schedule 13 fails to recognise drug and alcohol dependence as a health issue with significant implications for the lives of both the individual and their families. Disallowing an exemption when a person has been evicted from their home, simply because the reason for that eviction is connected with their dependence issues will clearly increase the risk of exacerbating the disadvantage experienced.

The Schedule directly links engagement with drug and alcohol treatment as an approved activity for satisfying participation requirements. Given the lack of evidence cited above regarding the efficacy of mandated treatment, PHAA does not support this inherent link.

The proposal also does not acknowledge the intensity of genuine attempts to overcome drug and alcohol dependence issues. Under this proposal, those who are complying with and attending treatment, may fail to meet their participation requirements if they do not also attend other appointments. The changes required to overcome drug and alcohol dependence issues may affect all areas of a person’s life including addressing past and current trauma, establishing healthy eating and sleeping patterns, securing stable housing, meeting child-custody requirements, breaking contact with other drug users, and many other examples. Fundamental changes such as these will not occur overnight, or without stumbles along the way. Finding and keeping employment will form part of that treatment – at the appropriate time. All attempts should be made to support those who have genuine will to change their lives. Additional expectations such as jobseeking activities may represent a barrier rather than an enabler of progress.

PHAA recommends that Schedule 13 be removed from the bill, and the funding re-allocated towards drug and alcohol treatment programs to fill the unmet need, allowing those with dependence issues a realistic chance of receiving the treatment they seek.

Schedule 14 – Changes to reasonable excuses

The proposal

This Schedule would mean that jobseekers who use drug or alcohol dependence issues as an excuse for failing to meet their participation requirements (such as attending an appointment) will be offered treatment. If they refuse treatment, the dependence issues cannot be used as a reasonable excuse again. If they agree to treatment, it will count towards their participation activities. If the jobseeker does not complete the treatment, it will no longer count towards the compliance with 50 hours per fortnight of participation requirements.

This Schedule is separate from the Schedule 12 drug testing trial, does not have a finish date and will apply to all jobseekers.

The issues

As for Schedule 13, Schedule 14 directly links engagement with drug and alcohol treatment as an approved activity for satisfying participation requirements. Given the lack of evidence cited above regarding the efficacy of mandated treatment, PHAA does not support this inherent link.

PHAA recommends that Schedule 14 be removed from the bill, and the funding re-allocated towards drug and alcohol treatment programs to fill the unmet need, allowing those with dependence issues a realistic chance of receiving the treatment they seek.
Conclusion

PHAA supports the broad directions of the Inquiry into this bill. However, we are keen to ensure that Schedules 12, 13 and 14 are removed, in line with this submission. We are particularly keen that the following points are highlighted:

- Drug and alcohol dependence must be treated as a health issue, and not linked with income support
- There is no evidence that drug testing welfare recipients, and mandating treatment would be successful
- The funds required to support these measures should be re-directed towards increasing the availability of drug and alcohol treatment services in Australia

The PHAA appreciates the opportunity to make this submission and the opportunity to comment on the proposed bill.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

Michael Moore BA, Dip Ed, MPH
Chief Executive Officer
Public Health Association of Australia

4 August 2017
References