



P: (02) 6279 1600
F: (02) 6279 1610
E: info@aivl.org.au
W: www.aivl.org.au
GPO Box 1552
Canberra ACT 2601

27 September 2019

Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

I am writing in response to the call for submissions on the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019* ('the Bill'). The Australian Injecting and Illicit Drug Users League (AIVL) welcomes the opportunity to provide comment to the Senate Standing Committee on Community Affairs in relation to this Bill.

AIVL believes that the establishment of mandatory drug testing in trial areas as a condition of receiving income support is a coercive and punitive measure that lacks any evidence of achieving lower rates of income support, increased income support compliance or decreased community harms related to drug use. During previous attempts to introduce this Bill, strong evidence has been presented to the Australian Government highlighting the proposed measures to be ineffective in achieving the outcomes they proport would be produced. Furthermore, it is already known that the alcohol and other drug (AOD) treatment service system in Australia is vastly underfunded and unable to meet current voluntary demand.

This submission is supported by the Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM), the Australian Federation of AIDS Organisations (AFAO), Scarlett Alliance – Australian Sex Workers Association, and the National Association for People with HIV Australia (NAPWHA).

Australian Injecting and Illicit Drug Users League (AIVL)

AIVL is the Australian national peak organisation representing the state and territory peer-based drug user organisations in relation to issues of national relevance for people with lived experience of drug

use. AIVL's vision is a world where the health and human rights of people who use/have used drugs are equal to the rest of community. This includes a primary focus on reducing the transmission and impact of blood borne viruses including HIV and hepatitis C – including for those accessing drug treatment services – through the effective implementation of peer education, harm reduction, health promotion and policy and advocacy strategies at the national level.

Mandatory drug testing ignores structural factors which underpin unemployment

AIVL rejects the assertion underpinning the Bill that substance use is a major barrier to social and economic participation. Whilst it has been quoted that during the 2018-19 financial year, there were 5,247 occasions when a jobseeker cited drug or alcohol dependency as a reason for not meeting their mutual obligation requirements, there is no detail as to what proportion of this figure relates to drugs and what proportion relates to alcohol, nor does this indicate if the use was problematic for the jobseeker or a one off incident.¹ Moreover, the proposed Bill does not seek to test for alcohol dependence, which is known to be the substance to cause most harm in the community.

Beyond the weakness of supporting evidence, the Bill ignores the well-established factors that both lead to social disadvantage and unemployment which keep people out of the job market. Research highlights a range of structural barriers for young people and adults in finding work such as; low literacy, poor internet access, lack of higher-education qualifications, disability, mental health, experience of domestic violence and trauma and prison convictions - all of these factors contribute to inequality and exclusion from the job market.²

The factors leading to unemployment and exclusion from the job market are complex and are not siloed – they are structural and require redress at a systems level. Drug dependence or drug dependency alone has not been established as a significant factor contributing to unemployment. Drug testing those receiving income support does little to address the broader factors highlighted and only serves to further demonise and stigmatise the portion of Australians who are already on the periphery of the job market.

Increasing pressure on an already under-resourced service system

A review by the National Drug and Alcohol Research Centre in 2014 found that there is a substantial unmet demand within the AOD treatment sector across Australia, with an estimated 200,000 – 500,000 Australians each year unable to access treatment for problems associated with drug or alcohol use.³ Furthermore, it is reported that the Australian AOD treatment system is currently under resourced by an incredible \$1.24 billion.⁴

¹ Parliament of Australia. (2019) *Bills – Social Services Legislation Amendment (Drug Testing Trial) Bill 2019 – Second Reading*. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F55419124-25ea-455e-bf57-1d1fab05abeb%2F0033%22>

² Jesuit Social Services & Catholic Social Services. (2015) *Dropping Off the Edge: Persistent communal disadvantage in Australia*. Available at: http://k46cs13u1432b9asz49wnhcx-wpengine.netdna-ssl.com/wp-content/uploads/0001_dote_2015.pdf, accessed 25 September 2019

³ National Drug and Alcohol Research Centre. (2014) *New Horizons: The review of alcohol and other drug treatment services in Australia*. Available at: <https://ndarc.med.unsw.edu.au/sites/default/files/ndarc/resources/New%20Horizons%20Final%20Report%20July%202014.pdf>, accessed 25 September 2019, p. 13

⁴ *ibid.* p 68

AIVL notes the commitment of an additional \$10 million in funding for treatment services across the trial locations of Canterbury-Bankstown, Logan and Mandurah however data from the local Primary Health Networks (PHNs) that operate within these areas raises concerns about the ability of the additional funding to enhance capacity within a significantly stretched system, particularly in the short term. Needs analysis reports produced by the respective PHNs highlight long waiting lists for inpatient and community-based treatment, limited services for complex cases, limited access to pharmacotherapies, little scope for early intervention of drug-related issues, poor linkages to mental health services and a forecasted shortage in workforce capacity, as well as ongoing issues with retaining the existing workforce.^{5 6 7}

An assumption is also being made by the Australian Government that anyone who uses any type of illicit drug in any quantity is unwilling and/or unable to seek employment. Ignoring the plethora of possible reasons, including the simple lack of job opportunities, shows a lack of evidence and insight in the reasons for which this Bill has supposedly been introduced.

Despite additional investment into drug support services in these areas, AIVL is concerned that this will not be enough to adequately enhance system capacity and will displace those who voluntarily seek support for their drug use. In this context, AIVL believes that the costs of drug testing as well as the additional \$10 million being invested in services would be better used to enhance the AOD treatment sector in Australia more broadly for people who are actively and voluntarily seeking to address issues related to their drug use.

No evidence that drug testing produces positive community outcomes

AIVL is concerned that the trial is proposed again without evidence of widespread drug use amongst people receiving income support or any indication that punitive compliance practices have a net community benefit.

Moreover, the measures of the proposed Bill, in no way provide an effective way for determining if someone has an issue with drug dependence. Following an initial test, if the result is positive, a second test will be conducted 25 working days later. The marker for dependence is using more than weekly. There is no way for the tests proposed within the Bill to determine dependence issues. As such the argument used to underpin the introduction of this Bill is disingenuous.

A review of drug testing and income support programs in Florida by the US Centre for Law and Social Policy found that only 2.6% of people receiving income support returned a positive drug test, with only 1% of all recipients meeting a threshold that required their support payments to be cut.⁸ Similar results were found in a review of programs in seven other US states, with between 0.02% and 8.3% of those on income support returning positive results.⁹ In New Zealand, where drug testing of people on

⁵ Brisbane South Primary Health Network. (2018) *Primary Health Network Program: Needs Assessment Reporting Template*. Available at: <https://bsphn.org.au/wp-content/uploads/2019/07/Brisbane-South-PHN-2019-22-Needs-Assessment.pdf>

⁶ South Western Sydney Primary Health Network. (2018) *Primary Health Network Program: Needs Assessment Reporting Template*. Available at: https://www.swsphn.com.au/client_images/2108900.pdf

⁷ Perth South Primary Health Network. (2018) *Primary Health Network Program: Needs Assessment Reporting Template*. Available at: <https://www.wapha.org.au/wp-content/uploads/2019/03/Perth-South-PHN-Needs-Assessment-2019-22.pdf>

⁸ Centre for Law and Social Policy. (2013) TANF Policy Brief: Random Drug Testing of TANF Recipients is Costly, Ineffective and Hurts Families. Available at: <https://www.clasp.org/sites/default/files/public/resources-and-publications/files/520.pdf>

⁹ Covert, B. & Isreal, J. (2015) Which 7 states discovered after spending more than \$1 million drug testing welfare recipients. *Think Progress*. Available at: <https://thinkprogress.org/what-7-states-discovered-after-spending-more-than-1-million-drug-testing-welfare-recipients-c346e0b4305d/>

income support exists, Ministry of Social Development figures report that in 2015, 32,000 people underwent drug testing and only 466, or 1.4% returned positive results.¹⁰

Following on from this, AIVL was unable to find any evidence that such programs were effective in either encouraging greater employment, increasing greater income support program compliance or reducing harm related to drug use.

With regard to this Bill, the Australian Government has continually ignored the evidence-base and opinions of experts including health professionals which indicate that this punitive and coercive policy is poorly conceptualised. Drug dependence is a health issue and needs to be treated as such by the Australian Government (as it is in other policy areas), it should not be used as a matter of social security compliance. If the Government's true intent is to encourage and support jobseekers to find employment, it is evident that this Bill will not achieve such an outcome.

In this context AIVL believes that the only foreseeable outcome from the proposed amendments would be to further perpetuate stereotypes and discrimination against people who use drugs and any person who is receiving income support and seeking to find employment. It is known that one of the biggest barriers to people seeking help for their drug problem is stigma.^{11 12} Thus the effects of this Bill would extend far and wide and most likely discourage people who may have sought voluntary help and treatment due to further and reinforced stigma.

Consent for drug testing is obtained by coercion

The Bill states that people receiving income support in the trial locations will be required to acknowledge that they will need to participate in the drug testing trial and failure to comply means that income support claims will not be processed. Furthermore, income support will be cancelled if a person does not consent to providing a sample to be tested.

Forcing people to participate in the trial and to provide a sample is highly unlikely to change the behaviour of a person who may in fact have a drug dependence problem. The simplistic notion that a such a threat will create behaviour change and override the effects of addiction is naïve at best.

AIVL is concerned that these measures mean that consent to participate in the trial is obtained through coercion as jobseekers living in the nominated trial sites will have no choice but to be part of the trial or they face having their income support cut regardless of if they use drugs or not, and if they do, regardless of whether that use is problematic or not.

AIVL believes that those living within the trial sites are being unfairly discriminated against for no reason other than their locations have been selected as part of the trial and the conditions of the Bill amount to unfair and unjust punishment given the utter lack of evidence that introducing such a Bill would provide better outcomes for jobseekers, people with a drug dependence, the Australian community as a whole or the social security system.

¹⁰ Collins. B. (2017) Tens of thousands drug-tested, hundreds fail. *Radio New Zealand*. Available at: <https://www.rnz.co.nz/news/political/325553/tens-of-thousands-drug-tested,-hundreds-fail>

¹¹ South Western Sydney Primary Health Network. (2018) *Primary Health Network Program: Needs Assessment Reporting Template*. Available at: https://www.swsphn.com.au/client_images/2108900.pdf

¹² St. Vincent's Health Australia. (2019) *Government's drug testing trial not the way to help people into treatment*. Available at: <https://www.svha.org.au/newsroom/media/governments-drug-testing-trial-not-the-way-to-help-people-into-treatment>

The Bill works against the goals of the National Drug Strategy 2017-2026

The National Drug Strategy 2017 – 2026 contains a number of strategies designed to reduce demand for illicit drugs. The introduction of drug testing for people on income support would work in contradiction to what is outlined in this Strategy and may serve to exacerbate the harms it argues to reduce. Within the Strategy, acknowledgement is given to drug use being a multi-determined behaviour which is influenced by a range of biological, psychological and environmental factors.¹³

It is stated in the Strategy that as part of good practice in reducing demand for illicit drugs, strategies should seek to ‘reduce the stigma’ of drug use to increase access to support services.¹⁴ As highlighted above, there is no evidence of widespread illicit drug use among people who receive income support, nor evidence to indicate that punitive measures will make any impact on unemployment rates or drug-related harm. Therefore, the measures proposed in the Bill only serve to perpetuate stereotypes about an inherent link between recipients of income support and drug use. This will have far-reaching implications on the self-efficacy of all people who receive income support payments.

This type of stigma and stereotyping creates real barriers for people who want to access health services and seek support for their drug use. AIVL has previously reported on the impacts of these types of stigma, from impacting on people’s mental health, to people avoiding health services and having an impaired ability to find work or hold down a job.¹⁵ This Bill will reinforce, for many, the exact negative aspects that it seeks to overcome.

There is strong evidence and expert opinion that the measures of the Bill will not work

Throughout the various iterations there has been strong opposition and a multitude of concerns with the effectiveness and efficacy of the proposed Bill. Every major medical and health organisation in Australia has expressed concerns with the Bill including; the Australian Medical Association, the Public Health Association of Australia, the Royal Australian College of General Practitioners (RACGP), the Royal Australian and New Zealand College of Psychiatrists, the Kirby Institute and St Vincent’s Health Australia.^{16 17} In addition, organisations from the social and community services sector such as the Australian Council of Social Services as well as esteemed academics from the University of Sydney have voiced their views that such a Bill will further stigmatise people who are already struggling.^{18 19}

¹³ Australian Government. (2017) *National Drug Strategy 2017-2026*. Department of Health. Available at: https://www.health.gov.au/committees-and-groups/ministerial-drug-and-alcohol-forum-mdaf?utm_source=nationalstrategy.gov.au&utm_medium=redirect&utm_campaign=digital_transformation, page 8

¹⁴ Ibid. p 10

¹⁵ Australian Injecting and Illicit Drug Users League. (2014) *We live with it almost every day of our lives: An AIVL report into the experiences of stigma and discrimination*. Available at: <http://aivl.org.au/wp-content/uploads/2018/06/AIVL-Discrimination-Survey-Results-Report-to-December-2015.pdf>

¹⁶ St. Vincent’s Health Australia. (2019) *Government’s drug testing trial not the way to help people into treatment*. Available at: <https://www.svha.org.au/newsroom/media/governments-drug-testing-trial-not-the-way-to-help-people-into-treatment>

¹⁷ The Royal Australian College of General Practitioners. (2019) *Renewed push to drug test ‘vulnerable’ welfare recipients criticised*. News GP. Available at: <https://www1.racgp.org.au/newsgp/clinical/renewed-push-to-drug-test-vulnerable-welfare-recipient>

¹⁸ Australian Council of Social Services. (2019) *Government’s drug testing policy demeaning and flawed*. Available at: https://www.acoss.org.au/media_release/governments-drug-testing-policy-demeaning-and-flawed/

¹⁹ University of Sydney. (2019) *Welfare drug tests: Social Darwinism or necessary evil?*. Available at: <https://sydney.edu.au/news-opinion/news/2019/09/12/welfare-drug-tests-social-darwinism-or-necessary-evil.html>

Concluding statement

AIVL welcomes the opportunity provided by the Senate Standing Committee on Community Affairs to comment on the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019* and its provisions that establish a trial of drug testing for people receiving Newstart and Youth Allowance.

AIVL supports measures that enable people excluded from the job market to find secure, ongoing employment as well as measures which enable people to access AOD treatment when they seek support. The proposed Bill to drug test people receiving income support does nothing to either address unemployment or reduce harms related to drug use.

The establishment of a program that has no evidence base to show significant gains to any stakeholders, when trialled in other countries, will simply misdirect scarce resources away from the estimated 200,000 – 500,000 Australians every year who are already known to be unable to access treatment and support when they require it.

AIVL believes that the outcomes of the trial will not be the ones that the Australian Government is seeking and the trial will in fact exacerbate existing issues relating to the further displacement of those voluntarily seeking treatment and support, further stigmatisation of people who use drugs and others who receive income support, and continue to ignore the structural issues which truly underly unemployment and problematic drug use. Furthermore, it is disappointing that see the re-introduction of a Bill that is in direct contradiction to evidence, expert opinion and the Australian Government's own *National Drug Strategy 2017-2026*.

AIVL recommends that the Senate Standing Committee advise the Australian Government against proceeding with the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019*.

Yours sincerely,



Melanie Walker
Chief Executive Officer