

Appendix 1

Correspondence



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MC14-011987

Senator Dean Smith
Chair
Parliamentary Joint Committee on Human Rights
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Dear Senator Smith *Dean*,

Thank you for your letter of 23 September 2014 about the *Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014*.

I have noted the comments in the Committee's *Twelfth Report of the 44th Parliament* and have provided my response to these comments in the enclosed document.

Thank you again for writing.

Yours sincerely *KA*

KEVIN ANDREWS MP

Encl.

21 OCT 2014

Social Services and other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014

The Parliamentary Joint Committee on Human Rights, in its 'Examination of legislation in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*' report, has sought further advice from the Minister for Social Services on whether measures included in the Social Services and other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 are compatible with rights to equality and non-discrimination on the basis of gender and family responsibilities.

This document provides a response to the Committee's request for advice on compatibility of the measures with those rights.

Right to equality and non-discrimination

Potential indirect discrimination against women

All Schedules

1.182 The committee requested the Minister for Social Services' advice on the compatibility of each schedule in the bill with the rights to equality and non-discrimination and, in particular, whether these measures are:

- aimed at achieving a legitimate objective;
- there is a rational connection between the measures and the objective; and
- the measures are proportionate to that objective.

1.183 The committee thanks the Minister for Social Services for his response.

1.186 Discrimination may be either direct or indirect. Indirect discrimination may occur when a requirement or condition is neutral on its face but has a disproportionate or unintended negative impact on particular groups.

1.187 The committee notes the minister's advice that the measures affect all recipients, regardless of their gender. While the measures therefore appear neutral on their face the committee remains concerned that they may have a greater impact on women than men, as women are more likely to be recipients of social security and, particularly payments provided to the primary caregiver of children.

1.188 Accordingly, the committee seeks the further advice of the minister as to whether the measures in the bill are compatible with the rights to equality and non-discrimination on the basis of gender and family responsibilities.

The Committee is seeking further advice as to whether the measures in the bill are compatible with the rights to equality and non-discrimination on the basis of gender and family responsibilities.

Consistent with my response to the Committee that I provided in July 2014, the proposed changes affect all recipients, regardless of their gender. The measures are aimed at ensuring that social security is targeted, sustainable and consistent over the long term, consistent with statements from the UN Committee on Economic, Cultural and Social Rights.

The measures will help ensure ongoing assistance is targeted to those who need it most, and the impacts are sufficiently small as to be proportionate to the objective of preserving access to the payments system over the long term.

These measures are compatible with the rights to equality and non-discrimination on the basis of gender and family responsibilities and apply irrespective of gender, reflecting a commitment to payments with no gender bias.