

## Community Affairs Legislation Committee

### INQUIRY INTO THE SOCIAL SERVICES LEGISLATION AMENDMENT (DRUG TESTING TRIAL) BILL 2018 – 24 APRIL 2018 ANSWER TO QUESTION ON NOTICE

Department of Social Services

**Topic:** Drug Testing Trial

**Question reference number:** Question 16

**Senator:** Siewert

**Type of question:** Hansard page reference: p. 49-50.

**Date set by the committee for the return of answer:** 1 May 2018

**Number of pages:** 2

#### Question:

**Mr Bennett:** We've obviously had lots of information put out associated with the trial. If I could speak more broadly, as we go forward, subject to the passage of legislation, reference groups will be established at each trial site. As part of those reference groups, we would expect that there would be an offer of representation for law enforcement agencies. We would see that as a valuable source of on-ground information, so that, if there was starting to be a misconception associated with this issue, we would be in a good place to take further remedial action.

**Ms Deininger:** If I might add to Mr Bennett's answer, in the case of jobseekers, for example, you can use drug and alcohol rehabilitation as part of meeting your mutual obligation requirements, so it is the case that the department and providers will know that, presumably, if you're having treatment, you have a substance misuse issue.

**Senator SIEWERT:** Yes, I understand that, but my point was that we were already getting evidence that people were going to be worried about actually coming for the test. If they already know they've got an addiction, for example, they are going to be put off coming and even more so if they think it's going to enable the police to charge them.

**Ms Deininger:** Certainly, as Mr Bennett said, there was no intention to share information in relation to the drug-testing trial outcomes with law enforcement.

**Senator SIEWERT:** Yes, I took that on board. It's more if they have the capacity to require the provision of information that I'm interested in.

**Ms Deininger:** We'll take that on notice.

#### Answer:

There are existing privacy safeguards in place under the *Privacy Act 1988* and the confidentiality rules in the *Social Security (Administration) Act 1999*. These laws provide that protected information, including any personal information such as health information, can only be accessed, used or disclosed in limited circumstances. Under the social security law, this includes for the purposes of administering that law; for research, statistical analysis or policy development; and where it has been certified as being in the public interest. These existing safeguards will apply to any information gathered as part of this trial.

Disclosure of test results will only occur in accordance with these laws. Positive test results will not be shared with police, future employers or state/territory authorities, such as child protection services or public housing authorities, specifically as part of this trial.

There are general processes which allow for the disclosure of personal information to the police or state authorities in very limited circumstances and in accordance with existing laws. This includes in relation to certain offences, to prevent or lessen a threat to the life, health or welfare of a person, or for child protection purposes.

## **Community Affairs Legislation Committee**

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#### **Department of Social Services**

**Topic:** Drug Testing Trial

**Question reference number:** Question 19

**Senator:** Watt

**Type of question:** Hansard page reference: p. 53.

**Date set by the committee for the return of answer:** 1 May 2018

**Number of pages:** 1

#### **Question:**

**Senator WATT:** Could you give us some examples of the situations that would constitute financial hardship?

**Ms Deininger:** I am happy to take the question on notice. I don't have any examples to hand.

#### **Answer:**

In the context of debt repayment under social security law, and noting that a debt cannot be waived in circumstances of financial hardship alone, a person in receipt of Newstart Allowance is considered to be in severe financial hardship if they cannot reasonably be expected to sell or borrow against assets to improve their financial position and if the amount of their readily available funds is:

- equal to or less than the maximum base rate of Newstart Allowance (plus Energy Supplement), if single; or
- equal to or less than the maximum base rate of Newstart Allowance for a member of a couple (plus Energy Supplement), if a member of a couple.

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Department of Social Services

**Topic:** Drug Testing Trial

**Question reference number:** Question 20

**Senator:** Watt

**Type of question:** Hansard page reference: p. 54.

**Date set by the committee for the return of answer:** 1 May 2018

**Number of pages:** 1

#### **Question:**

**Senator WATT:** If, for argument's sake, the cost was \$500, they may have to pay 10 per cent of their benefits until they pay that off?

**Ms McGuirk:** Yes

**Senator WATT:** But separate to that there is the capacity to waive the cost altogether if financial hardship can be demonstrated?

**Ms Deininger:** I'm happy to take the financial hardship aspect on notice.

#### **Answer:**

A person's repayment of their drug test repayment debt will be able to be reduced, including to zero, for a period of time if the Secretary is satisfied that the person's circumstances are exceptional, and that they would suffer severe financial hardship if the amount otherwise payable was applied.

All or part of a Social Security debt can be waived if special circumstances exist. Financial hardship alone does not constitute a special circumstance.