



NADA
network of alcohol and
other drugs agencies

Submission to the Standing Committee on Community Affairs Social Services Legislation Amendment (Drug Testing Trial) Bill 2019

The Network of Alcohol and other Drugs Agencies (NADA) is the peak organisation for the non government alcohol and other drugs sector in NSW. We represent close to 100 organisational members that provide a broad range of alcohol and other drugs services including health promotion and harm reduction, early intervention, treatment and continuing care programs. Together, we work to reduce the harms related to alcohol and other drugs use across the NSW community.

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ABOUT NADA

The Network of Alcohol and other Drugs Agencies (NADA) is the peak organisation for non government alcohol and other drugs services in NSW. We advocate for, strengthen and support the sector. As a member driven peak body, NADA's decisions and actions are informed by the experiences, knowledge and concerns of its membership.

We represent close to 100 organisational members that provide a broad range of alcohol and other drugs services including health promotion and harm reduction, early intervention, treatment and continuing care programs. Our members are diverse in their structure, philosophy and approach to alcohol and other drugs service delivery.

Together, we work to reduce the harms related to alcohol and other drugs use across the NSW community.

NADA has award level accreditation under the Australian Services Excellence Standards (ASES), a quality framework certified by Quality Innovation and Performance (QIP).

To learn more, visit www.nada.org.au.

PREPARATION OF THIS SUBMISSION

NADA has developed the following submission for the Standing Committee on Community Affairs, Legislation Committee of the Australian Government: Inquiry into the Social Services Legislation Amendment (Drug Testing Trial) Bill 2019. The comments provided in this submission have been prepared by NADA staff, on behalf of its members, and has been endorsed by the Board of Directors.

NADA contact for this submission

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SOCIAL SERVICES LEGISLATION AMENDMENT (DRUG TESTING TRIAL) BILL 2019

Introduction

In line with the views of our membership, a number of other specialist alcohol and other drugs (AOD) and other health bodies (in particular the Public Health Association), NADA does not support the measures outlined in the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019* (Bill). These measures are not based on evidence; they contravene the expert advice from the addiction medicine sector, the AOD specialist non government sector and other health bodies; and they are likely to cause social and clinical harm to people suffering with AOD dependency issues. Further, NADA believes that the overall proposed Bill will actively work against the Australian Government's new *National Drug Strategy 2017–2026*. What's more, these measures critically fail to attain the Bill's stated objective. They will fail to help welfare recipients to attain jobs, as they do not address the broader structural factors that contribute to their unemployment.

With respect to the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019*, consultation with our membership base and with the addiction medicine sector in NSW also indicate that this reform proposal will further marginalise a population of people who experience a greater burden of ill health, and psychological and social disadvantage. NADA is concerned that the only likely outcome of this Bill will be to worsen the substance dependency of the people targeted, and to make voluntary entry to treatment more difficult than it already is. This is because the Bill misunderstands the nature of drug dependence. Drug dependence is a medical condition, with chronic relapsing features, akin to asthma and diabetes. The condition is exacerbated by social, psychological and environmental factors, which are in most cases, beyond the individual's control.

The proposed drug testing trial: Evidence and efficacy

The objective of the Bill is to 'test the effectiveness of decreasing substance abuse through random drug testing, in an effort to improve employment outcomes for trial participants'. NADA believes that in relation to this outcome this proposed testing regime is flawed for a variety of reasons.

1. It is well understood in the expert literature and among the AOD specialist sector that drug dependency is a complex biological, psychosocial and environmental phenomenon, characterised as a chronic relapsing remitting condition where use is difficult to control and persists despite harmful consequences. The common causes of drug dependency are primarily attributed to environmental/social factors such as trauma, physical and psychological abuse during childhood and adolescence, family and peer usage, and in many cases, concurrent physical and mental health conditions. It is clear from the experience of the AOD treatment sector that socioeconomic disadvantage, insecure housing, incomplete education and poor access to employment are all significant contributing factors to AOD misuse and dependency.
2. The 'reasonable excuse provisions' is just one example of how this Bill fails to understand the nature of drug dependence. 'Reasonable excuse provisions' will apply but not where the reason is wholly or substantially attributable to AOD use. This is akin to suggesting that if a patient with cancer fails to attend for a chemotherapy session (due, for example, to pain or inability to travel

as a result of the cancer), they are penalised because it is the cancer that has prevented their attendance.

3. It is well understood within the specialist AOD field that drug use is a complex of issues and not merely a matter of personal choice. Relying on drug testing as the indicator of dependency and reduced capacity to function is, in our view, flawed. The distinction between someone needing to cease AOD use because of clinical need, and their personal motivation to cease use, needs to be recognised. There are distinct differences between dependent and recreational users, and by simply focusing on drug testing we will not be able to recognise the difference between substance use disorder requiring a treatment intervention and those who do not require treatment in a service system that is overstretched and underfunded.
4. Referral to treatment to all of those who test positive will be a waste of resources, particularly when nationally—and in particular, in relation to the trial sites—there are a shortage of treatment services available. Drug testing indicated mandatory drug treatment—along with welfare quarantining outlined in the Bill—is disempowering and punitive. In our experience, it is unlikely to lead to sustained changes in the person’s drug use behaviours and runs the risk of being counterproductive. Further, it fails to consider or address the underpinning environmental/social influences and structural determinates leading to substance use and dependence. Also, NADA believes the aims are poorly aligned to the mechanisms, and the policy contributes to further poverty and structural inequity: income management plans for those who return a single positive drug test do not align with the overall aims of the trial (‘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’).
5. NADA believes that the Bill’s proposed drug testing regime is not supported by the current evidence. For example, the New Zealand government’s drug testing trial among welfare recipients as a pre-employment condition returned a detection rate in that population much *lower* than the proportion of the population estimated to be using illicit drugs in New Zealand as a whole. In addition, having the Australian trials exclusively conducted in regions with presumed high drug use (on the basis of grossly simplified indicators like waste water testing) and dependent on the availability of treatment services will not, we believe, accurately test the feasibility or effectiveness of the proposed objectives of the trial, nor will it accurately be able to inform any future national roll out of the measure.
6. NADA is also concerned that the trial is progressing despite it being universally noted by AOD specialists in the proposed trial sites that the necessary drug testing technologies and treatment capacity in these regions are simply not there. There is evidence that when drug testing regimes are implemented, some people switch from better known drugs (those that are included in the testing regime) to lesser known drugs, which may be more harmful. Examples of this phenomenon can be seen in the UK, where synthetic cannabis-type drugs (known as ‘green crack’ because of its high harm) is being used in prison and correction settings where individuals are subject to mandatory drug testing, with the testing unable to detect these newer and arguable more dangerous psychoactive compounds¹. This is also occurring in Australian mining

¹ Ralphs, R., Williams, L., Askew, R., & Norton, A. (2017). Adding Spice to the Porridge: The development of a synthetic cannabinoid market in an English prison. *International Journal of Drug Policy*, 40, 57-69.

communities². Testing technology simply cannot keep up with the number of new drugs on the market. So, if the trial goes ahead, and some welfare recipients pre-empt the drug tests by switching to lesser known psychoactive substances, it is probable that greater harms will result.

7. NADA also further argues that the trial will not achieve a valid AOD treatment outcome. The most likely outcome from the amendments proposed in the Bill will be to punish welfare recipients and further perpetuate negative stereotypes and active discrimination against people who use drugs and potentially all those people who receive welfare support. NADA, along with our colleagues in organisations representing people who use drugs and the non government social services and housing sectors, are also very concerned that the consent to this drug testing is obtained by coercion under the proposed amendments (the local Centrelink office) and that this unfairly discriminates against participants who rely on income support in these trial regions compared with the welfare recipient population nationally. As indicated, NADA believes that these conditions amount to unfair punishment based on the limited data that has been presented to justify the Bill.

The potential to impact on an underfunded and overstretched AOD service system

As recently highlighted by the National Drug and Alcohol Research Centre's review of AOD treatment services in Australia, specialist AOD treatment is chronically overstretched and underfunded³. This study further demonstrates that the funding base from Commonwealth and State governments is not commensurate with population needs. In the same study, the same authors found that AOD treatment services in Australia meet the needs of fewer than half of those seeking treatment. NADA further notes that this is not the estimated population need, but those *actively seeking treatment*, and this leads the majority of the specialist field to estimate that we are meeting the treatment needs of one in four people that actually require treatment.

In our recent submission to the NSW Government's Inquiry into the availability of rehabilitation services to regional, rural and remote NSW, NADA highlighted the drastic shortage of specialist treatment services for youth, and all forms of residential rehabilitation treatment services⁴. There are also workforce shortages including access to addiction medicine specialists, mental health nursing and medical staff.

NADA notes the commitment of an additional 10 million dollars in funding for treatment services across the trial locations of Canterbury-Bankstown in NSW, Logan in Qld and Mandurah in WA. NADA remains concerned that the data on AOD service needs in these sites from the Primary Health Networks that operate in these areas indicates that long waiting lists for in-patient and community based treatment, limited or non-existent services for complex mental health and other comorbid cases, limited access to pharmacotherapies, limited scope for early intervention, lack of ongoing

<http://www.sciencedirect.com/science/article/pii/S0955395916303073>

² Bright, S. J., Bishop, B., Kane, R., Marsh, A., & Barratt, M. J. (2013). Kronic hysteria: Exploring the intersection between Australian synthetic cannabis legislation, the media, and drug-related harm. *International Journal of Drug Policy*, 24, 231–237. <https://www.ncbi.nlm.nih.gov/pubmed/23333135>

³ New Horizons: The review of alcohol and other drug treatment services in Australia (2014). DPMP, UNSW.

⁴ NADA Submission to Portfolio Committee No. 2 – Health and Community Services inquiry into the provision of drug rehabilitation in regional, rural and remote NSW http://www.nada.org.au/media/96963/nada_submission_inquiry_drug_rehab_in_regional_rural_and_remote_nsw_081217.pdf

sufficient funding to support demand within services and a limited workforce retention capacity. This means that this initial one-off funding will not be adequate to manage the extra demand.

NADA believes that the additional funds earmarked for the trial and for the additional treatment services would be better used to enhance the availability of the existing AOD specialist treatment to the welfare support services system for people who are actively seeking to address issues relating to their AOD use. Further, we argue that a larger nationally planned and coordinated service linkage system between the AOD service system and Commonwealth Social Security services system be considered as an alternative to this Bill. This would include a significant new input to appropriate budgets under the existing National Drug Strategy Commonwealth AOD funding already available.

Concluding comments

NADA welcomes the opportunity provided by the Senate Standing Committee on Community Affairs to comment on the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2018*, and its provisions that establish a trial of drug testing for people receiving Newstart and Youth Allowance. NADA and its membership supports all reasonable measures that may enable people not currently in the employment market to find secure and ongoing employment. We also believe that all such people should have priority access to AOD treatment should they need this support.

NADA is concerned that the likely outcome of this proposal will be to place further demand on an already stretched specialist service system and further delegitimise and stigmatise people who use drugs and potentially, people receiving income support. NADA also notes that the Bill works in direct contradiction to the *National Drug Strategy 2017–2026* which states 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 appropriate support services. Further, as highlighted within the National Drug Strategy, there is a need to reduce drug related harm by addressing underlying social, health and economic determinates of drug use.

As outlined by the Australian Council of Social Services, referred to in the AVIL submission to the Social Services Legislation Amendment (Welfare Reform) Bill 2017:

The Australian Council of Social Service (ACOSS) and the Social Policy Research Centre's (SPRC) 2016 report on poverty in Australia highlights that a majority of Newstart recipients (55%) fell below the poverty line.⁵ The report also found that for a single person without children who receives Newstart, payments were \$109 per week below the poverty line, while Youth Allowance recipients in the same position fell \$158 per week below.⁶ This is in addition to there being no real increase in income support payments since 1994, causing people who receive these payments to fall further behind the rest of the Australian community.⁷

NADA fully supports this statement.

Poverty is a major issue for many people with drug dependencies. Structural determinants of health (societal structures and inequality that produce marginalisation and poor health outcomes) reside outside

⁵ Australian Council of Social Service. (2016). *Poverty in Australia 2016*. <http://www.acoss.org.au/wp-content/uploads/2016/10/Poverty-in-Australia-2016.pdf>

⁶ *Ibid*

⁷ Australian Council of Social Service. (2015). *Inequality in Australia 2015*. http://acoss.wpengine.com/wp-content/uploads/2015/06/Inequality_in_Australia_FINAL.pdf

of an individual, or her or his own control. Even amongst people with drug dependencies who have sought treatment, research has shown that income-poor clients (including those on welfare) prioritise costs associated with treatment (such as dispensing fees and GP visits) over basic needs such as food and accommodation and are often compelled to access emergency relief services.⁸ This is a highly vulnerable population. Any policy that actually *increases* inequality or contributes to these structural determinants reduces the health outcomes. The removal of welfare payments is precisely such a policy. There is no evidence that keeping people in poverty decreases consumption of substances or improves health.

NADA does not believe the proposal to drug test people receiving income support will address the root causes of their unemployment or reduce the harms associated with their AOD use. NADA maintains that the proposed trial of drug testing and the overall Bill has no real evidence base, nor has this approach shown any significant gains when trialled in other countries. Further, this proposed trial is a waste of scarce resources that would be better used to increase the capacity of the existing AOD treatment service sector to meet the significant unmet demand demonstrated in the expert Australian literature on this topic. Finally, NADA argues that AOD dependence must be treated as a health issue, and not linked with the income support welfare system in the way this Bill does.

⁸ Rowe, J. (2007). A Raw Deal? Impact on the health of consumers relative to the cost of pharmacotherapy. A report for the Salvation Army. Available at: <http://www.salvationarmy.org.au/Global/News%20and%20Media/Reports/2008/4-raw-deal-book.pdf>