

## Senate Community Affairs Legislation Committee

### SUPPLEMENTARY BUDGET ESTIMATES – 22 OCTOBER 2015 ANSWER TO QUESTION ON NOTICE

#### Department of Human Services

**Topic:** WA Non-agency Payment Case

**Question reference number:** HS 170

**Senator:** Xenophon

**Type of question:** Written

**Date set by the committee for the return of answer:** 11 December 2015

**Number of pages:** 1

#### **Question:**

Noting the following statement by Mr Learmonth:

If I may, you quoted the judgement. The judge also went on to say, ‘The court notes that, although the father has made significant financial contributions to the children, they have been for luxury or non-essential items, leaving the mother to justify, we feel, that she was left to pay for those essential items without the child support she was entitled to.’.

Please detail the items listed in the judgement that the Department might believe are ‘luxury or non-essential items’.

#### **Answer:**

The Department is not required to consider whether items are non-essential or luxury items, only that both parents agree that the payment was made in lieu of child support.

That is, for a Non Agency Payment to be credited, sections 71 and section 71A of the *Child Support (Registration and Collection) Act 1988* require that both the payer and the payee intended a direct payment to be in satisfaction of an amount payable under the enforceable maintenance liability.