

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
BUDGET ESTIMATES 2017

Australian Human Rights Commission

Question No. BE17-069

Senator Watt asked the following question on 25 May 2017:

CHAIR: Welcome, Mr McEwen.

Senator WATT: Thank you, Mr McEwen, for coming along today. I have a couple of questions about the Disability Discrimination Act. It may be that some of these questions are best directed to you; alternatively, it may be that they are better directed to the department. We can work out where they go, depending on who is responsible for what. For the purposes of the Disability Discrimination Act, is drug dependence, in some circumstances, considered to be a disability?

Mr McEwen: I will have to take that on notice. However, the DDA deals with medical disabilities, which would include a dependency on drugs. But I am happy to take that on notice and give you a more detailed response.

Senator WATT: Sure. Is there anyone within the department who might be able to advise on that?

Mr Moraitis: We will have to take that on notice too, Senator.

Senator WATT: Is there no-one here who knows? Mr Walter?

CHAIR: If there were, could I suggest we might come back to them later.

Senator WATT: It helps with the flow of the questions, if we can have that clarified.

Mr Walter: My answer would be pretty much identical to the commissioner—that we would have to have a look at it but, yes, medical conditions—

Senator WATT: Medical conditions, okay. I accept you are taking it on notice, but—potentially—drug dependence might constitute a disability for the purposes of the act.

The response to the honourable Senator's question is as follows:

In *Marsden v HREOC* [2000] FCA 1619 (15 November 2000) the Federal Court held that dependence on opioids could constitute a disability within the meaning of the *Disability Discrimination Act 1992* (Cth).

The decision is available at: <http://www.austlii.edu.au/au/cases/cth/FCA/2000/1619.html>