

QCOSS Position Statement

Drug Testing Trials

Our position:

QCOSS does not support the drug testing trial for people accessing income support.

- QCOSS believes that access to the social safety net is a critical part of a civil society and supports social cohesion. QCOSS believes addressing complex health issues like substance use disorders, through the welfare system is fundamentally flawed.
- QCOSS supports evidence-based employment programs and evidence-based, clinical and community-based approaches to addressing the public health issue of problematic substance use.
- QCOSS stands with the numerous clinical and health experts who unanimously condemned the drug testing trial in their submissions to the Senate Inquiry, as an inadequate and potentially harmful response to an important public health issue.
- QCOSS cautions that the drug testing trials may further stigmatise welfare recipients in areas where there are limited options for economic participation and has the potential to further disadvantage communities.

Recommended actions

QCOSS calls on the Australian Government to:

- Abandon its attempts to introduce drug testing trials for people accessing income support, which wrongly presumes problematic substance use is widespread among people accessing income support.
- Explore alternative options to be developed, tested and evaluated to identify the most effective response to issues of substance use disorders. This includes seeking expert clinical advice regarding the scientific understanding of substance use disorders, in the context of wider community socio-economic problems.
- Based on this, work with all levels of government and the community to develop an evidence-based strategy for addressing substance use disorders in target communities.
- Adopt a place-based, citizen-led, strengths-based approach to address the effects of substance use disorders, that ensures people impacted by the approach are involved in decision-making.
- Ensure that the approach incorporates an economic development focus to ensure participants have a pathway to employment.

Rationale

- Substance use disorders are a public health, not an income support issue. This trial presumes a causal connection between income support and substance use problems.
- The government does not provide evidence linking problematic substance use with barriers to employment. The trial ignores expert clinical evidence about the treatment of substance use problems. There is a lack of evidence of treatment of substance use problems through income management. A compliance approach to a public health problem is deficit-based, punitive, stigmatising and without evidence of effectiveness.
- Experts indicate that previous drug testing trials led to several adverse consequences, without achieving objectives of supporting people into employment, or improving the integrity of the social security system.
- This process risks subjecting income support applicants to a humiliating violation of their privacy and may be considered an act of discrimination.

About the drug testing trials

The proposed reforms contained in the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2018*, would see 5,000 people across three sites tested for selective illicit substances as a condition of receipt when they apply for unemployment payments. One of the trial sites would be Logan, Queensland, in which 2,500 income support recipients will be tested (DSS, 2017). Based on AIHW data about the proportion of people with problematic substance use, these are only likely to test positive for around 125 participants (AIHW, 2017).

Attachment 1 outlines the process for drug testing.

Purpose

- The stated aim of the trial is to 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. The trial will test the effectiveness of decreasing substance abuse through random drug testing, in an effort to improve employment outcomes for trial participants.
- The purpose of the drug testing trial presumes a causal connection between so-called 'welfare dependency' and substance use problems, with claims there is a "*real connection between drug abuse and unemployment*". Research shows that this is difficult to identify (ANCD, 2013).
- This legislation does not provide a distinction between people with a drug dependency and occasional or recreational users. There is no explanation about how false positives will be treated or contended, as occasional drug users without a dependency will receive the same treatment as those with a serious substance use disorder.
- Despite claims that the "*trial is not about penalising jobseekers with drug abuse issues*", it clearly takes a punitive, compliance approach to a health issue, impacting on both those who may have a drug problem, and those who do not.
- Previous similar trials around the world show that drug testing leads to several adverse consequences, without achieving objectives of supporting people into employment, or improving the integrity of the social security system, (ANCD, 2013).

Clinical evidence

- Health and drug treatment experts have unanimously opposed the proposed trial in their submissions to the Senate Inquiry, citing a range of clinical evidence.
- The Australian National Council on Drugs reviewed the evidence around drug testing and recommended in its position paper that income support recipients not be drug tested. Their paper concluded that "*There is limited evidence available on the effectiveness of drug testing welfare recipients for deterrence of drug use, increasing employment participation, or reducing welfare spending*" (ANCD, 2013).
- Research into similar programs has concluded while health-directed treatment is highly cost efficient, there are insufficient services in Australia and people are already under-treated, (The National Drug and Alcohol Research Centre, 2017). While the additional funds provided for treatment facilities in the trial sites is welcome given historic underservicing of this sector, it is unlikely to support the full level of increased need due to the trials.
- The Ice Taskforce Report 2015 clearly prioritises supporting families, professionals, workers and communities alongside targeted treatment and support services over any punitive approach to reducing the consumption of illicit drugs, (Commonwealth of Australia, 2015).
- Dr Ewen McPhee has stated those who do not have a health issue with drugs will not be helped by the drug testing, and that it is an unproven policy (Rural Doctors Association of Australia, 2017).
- Clinical experts reviewed a proposal by the Canadian Government drugs testing trial in Ontario and published in the International Journal of Drug Policy, finding that such a program could increase crime, health problems and be legally challenged as a violation of human rights, (Macdonald et al, 2001).
- Recent systemic reviews concluded there is no evidence that suggest improved outcomes related to compulsory treatment, with some studies suggesting potentially severe harms, (Broadstock et al, 2008; Werb et al, 2016). The Federal Government's own National Drug Strategy 2017-2026 (DOH, 2017), identifies "*Evidence-informed responses*" as one of its 'Underpinning Principles'.

Ethics and human rights

- The drug testing trial creates ethical issues for its implementation and effective evaluation. The trial is not being implemented with existing recipients of income support, as consent is required before the testing can be administered. The invasive nature of the drug testing by follicle, saliva or urine sample does not respect people's right to privacy and dignity.
- This program is a potential act of discrimination as it seeks to address a health issue by intimidating and further disempowering an already marginalised group of people, who are often stigmatised for their substance use disorders. The Law Institute of Victoria believes that drug testing welfare recipients raised issues of discriminatory treatment under the International Covenant on Economic, Social and Cultural Rights, (McFadden, 2017).
- The lack of procedural measures for when a person wishes to contest test results may disrespect people's right to equal recognition by the law and review by tribunal or committee.

- The Australian Human Rights Commission sets out in their submission the criteria for income management measures, in accordance with the Racial Discrimination Act 1975, that they must be evidence based, a last resort, and the least restrictive option. This trial meets none of those criteria.

References

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Attachment 1 - Drug Testing Trial Process

- New recipients of Newstart Allowance and Youth Allowance (other) in a trial site and who make a claim after commencement of the trial will be randomly selected to undertake a drug test. These new claimants will be asked to acknowledge in the claim form that they may be required to undergo drug testing as a condition of payment.
- Recipients selected will be notified to attend an appointment at their local Centrelink office consistent with standard Department of Human Services' appointment requirements.
- At the appointment, recipients will be notified they have been selected to participate in the trial and are required to undertake a random drug test immediately. Drug testing will be administered by third party drug testing providers contracted for that purpose, either in a private space at the Centrelink office or on the provider's premises nearby.
- Participants who return a positive test at this initial drug test will be subject to income management for a 24 month period. If the recipient's first test is negative they will not be subject to income management.
- Recipients who test positive to the initial drug test, will also be subject to further random tests during the trial period, the first of which will occur within 25 working days of the initial positive test.
- Recipients who test positive to more than one drug test in the 24 month period will be referred to a Department of Human Services' contracted medical professional for assessment.
- If the medical professional recommends treatment, the recipient will be required to complete the recommended treatment activities designed to address their substance abuse as part of their Employment Pathway Plan (also known as a Job Plan).
- These activities may include rehabilitation, counselling or ongoing drug testing. Where treatment is not immediately available, recipients will be required to take appropriate action such as being on a waiting list to satisfy part of their mutual obligation requirements. Recipients with a drug treatment activity in the plan may still be required to undertake other activities, including job search, depending on their circumstances.
- If the recipient's payment is cancelled during the 24 month period and later reclaimed, they will return to income management for the remainder of the 24 months.
- Recipients who refuse to take the test (whether first or subsequent tests) will have their payment cancelled with effect from the day on which the refusal occurred, unless the person has a reasonable excuse. Suspension will not be an option.
- If the person then makes a new claim for Newstart Allowance or Youth Allowance (other) following cancellation, the payment will not be payable for a 4-week period from the date of cancellation.
- Recipients who subsequently return to payment after their waiting period will still be subject to the trial and required to undergo random drug testing as a condition of their ongoing receipt of payment. The 4-week period only applies to recipients whose payment was cancelled because of their refusal to take the drug test despite acknowledging and accepting that they may be subject to drug testing as part of their initial claim for payment.