

**From:** Chambers - Booth DP

**Sent:** Thursday, 16 November 2017 3:26 PM

**To:** 'Noni Lord'; 'KEMP, James'; 'Stephen.bull@unitedvoice.org.au'; Leigh Svendsen; 'fogarty@denmanchambers.com.au'; Kairsty Wilson; 'cainpaul@icloud.com'; 'craig.rawson@ags.gov.au'; 'abigail.cooper@ashurst.com'; Nigel Ward; 'chrisc@greenacres.net.au'; 'MarkW@greenacres.net.au'; 'pfrench@disabilitylaw.org.au'; 'samanthaf@pwd.org.au'; 'Anthony.rohr@maiwel.com.au'; 'Smith\_c1@optusnet.com.au'; 'Steve.burgess@flagstaffgroup.com.au'; 'Roy.rogers@flagstaffgroup.com.au'; 'lmooney@dsa.org.au'; 'mlcinitaly@gmail.com'; 'mj buck2@telstra.com'; 'estelleshields@hotmail.com'; 'hdickens@dsa.org.au'; 'kerrie.langford@nds.org.au'; 'bree.willsmore@dss.gov.au'; 'johnharvey@greenacres.net.au'; 'marywalsh6@bigpond.com'; 'mpatrick@disabilitylaw.org.au'; 'Skillsmaster275@outlook.com'; 'cnewbold@actu.org.au'; 'Rowena.Freeland@dss.gov.au'; Joe Murphy; 'cwatts@actu.org.au'; 'Sina Zevari'; 'Chris.D'SOUZA@dss.gov.au'; Emily Slaytor

**Cc:** Chambers - Booth DP

**Subject:** RE: AM2014/286 - Supported Employment Services Award 2010

Dear Parties

Deputy President Booth has reviewed all the parties' correspondence in relation to the release of the ARTD report.

It appears to her that the conditions sought by AED, unions and advocacy groups for the release of the ARTD report have been accepted by the NDS. With this agreement she considers that it is not inappropriate for the reports to be released. She understands that DSS has been privy to all the exchanges between the parties and anticipates that if they wanted to comment upon the proposal to release the report they would have done so.

In this circumstance she is comfortable for NDS to file redacted versions of the ARTD report and trial/demonstration reports as part of its materials in reply.

Kind regards

**Grace Cummings**

Associate to Deputy President Booth

**Fair Work Commission**

Tel: 02 9308 1818

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[www.fwc.gov.au](http://www.fwc.gov.au)

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2011 LIV Community Lawyer of the Year Award | 2013 Tim McCoy Award | 2014 HESTA Social Impact Award  
2016 National Disability Award - Excellence in Justice and Rights Protection

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16 November 2017

**By Email: [Chambers.Booth.dp@fwc.gov.au](mailto:Chambers.Booth.dp@fwc.gov.au)**

Deputy President Booth  
Fair Work Commission  
10/80 William Street  
EAST SYDNEY NSW 2011

Dear Deputy President Booth

**Re: AM2014/286 – Supported Employment Services Award 2010  
Request to release ARTD Report**

On 27 October 2017, the parties (AED Legal Centre, Inclusion Australia, People with Disability Australia, the Health Services Union, and United Voice) received Correspondence from DP Booth's Chambers asking if any party had an objection to the public release of the ARTD report on the evaluation of the SWS modifications (as requested by NDS). Any objections were to be lodged by close of business 2 November 2017.

On 2 November 2017, AED on behalf of the other parties replied, stating that they would not agree to the release of the ARTD Report on the evaluation of the SWS modifications unless all documents as outlined in our letter, were also released.

On 3 November 2017, your Chambers requested a response to the above proposition. On 6 November 2017, Mr Sina Zevari of Australian Business Lawyers (ABL) responded with what we believed to be an agreeance with our position. They stated that all three (3) reports referred to in our letter, including any information, relating to the trials and demonstrations, with the redaction of the parties' details. It was further stated that NDS would file redacted versions of the ARTD Report and trial and demonstration reports as part of its materials in reply on or before 4pm on 21 November 2017 (if the extension to file was granted).


We dispute the email sent by ABL on 14 November 2017, claiming that we had not responded to the request for the release of the ARTD report. It is very clear from our email dated 2 November 2017, that if all reports and accompanying documents were to be released, we would consent. Unless we have misinterpreted Mr Zevari's response, we believe he has agreed with our proposal. We therefore do not consider there was a need to respond further.

The Commonwealth, who has ownership over the documents that AED and ABL have agreed to publicly release, is yet to respond to the issue. If the Commission agrees to release all three (3) reports, assessment data, and ADE survey, produced during the conference proceedings of AM2013/30, it is appropriate that the Commonwealth publish these reports with appropriate protections of employees and individuals who participated with the understanding that this was being conducted under the terms of "confidential without prejudice".

It is noted that there have been a number of witness statements available on the 4 Yearly Review website which refer to the ARTD report. As there has not yet been a decision to publically release this report, Endeavour and any other party who refers to it, has breached confidentiality. Further, we note that some witness statements also refer to the trials and demonstrations of the modified supported wage, which again was bound by confidentiality. It is of concern, that these employer groups and other parties have failed to adhere to the rules of confidentiality.

If you have any queries in relation to the above, please email us at [noni.lord@aed.org.au](mailto:noni.lord@aed.org.au) or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kairsty Wilson', written in a cursive style.

Kairsty Wilson  
Principal Legal Practitioner  
AED Legal Centre