

28 July 2022

Vice President Hatcher (c/o Associate to Vice President Hatcher)  
Fair Work Commission  
Level 11, 80 William Street  
East Sydney NSW 2011  
**By email only:** [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Dear Vice President Hatcher,

**AM2014/286 – 4 yearly review of awards - Supported Employment Services Award 2020 – response to order for production**

We refer to the above matter, the application for a notice to produce (**Application**) filed by the Association of Employees with a Disability (**AED**) and the order for production issued by your chambers dated 7 July 2022 (**Order**).

We confirm that Sparke Helmore continues to act for the Commonwealth of Australia as represented by the Department of Social Services (**Department**).

We have set out below the Department's response to each item identified in the Order and confirm the Department has limited documents that fall within the scope of the Order. While the Department has made proper enquiries to comply with the Order, the possibility of the Department having limited documents to produce was foreshadowed in our communications with the AED following receipt of the Application.

Item No	Item Description	Department's response
1.	<i>Any reports or other documents (excluding emails) in the possession of the Commonwealth of Australia as represented by the Department of Social Services that record the number of Australian Disability Enterprises (ADEs) that use the Supported Wage System (SWS) for the financial year ending 30 June 2022. To the extent that any document duplicates the same information on the number of ADEs using the SWS, only one document containing this information needs to be provided.</i>	Please find <b>enclosed</b> a document titled 'Item 1 and 2 – data report'.  For ease of reference, we note that this data indicates that there are <u>35 ADEs</u> that used the SWS for the financial year ending 30 June 2022.  In accordance with the terms of this order, the Department has not provided multiple documents that contain the same information on the number of ADEs using the SWS.
2.	<i>Any reports or other documents (excluding emails) in possession of the Commonwealth of Australia as represented by the Department of Social Services</i>	Please find <b>enclosed</b> a document titled 'Item 1 and 2 – data report'.

**Melbourne**

Level 40, 600 Bourke Street, Melbourne VIC 3000  
PO Box 82, Collins Street West, Melbourne VIC 8007  
t: +61 3 9291 2333 | f: +61 3 9291 2399 | [www.sparke.com.au](http://www.sparke.com.au)  
adelaide | brisbane | canberra | darwin | melbourne | newcastle | perth | sydney | upper hunter

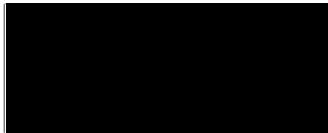
	<p><i>that contain statistical, modelling or other summary information about the take-up of the SWS by ADEs over such period or periods the Department has that information for the financial year ending 30 June 2022. To the extent that any document duplicates the same information relating to statistical, modelling or other summary information about the take-up of the SWS by ADEs, only one document containing this information needs to be provided.</i></p>	<p>This document shows, for the financial year ending 30 June 2022, the ADE's that took up the SWS.</p> <p>In accordance with the terms of this order, the Department has not provided multiple documents that contain the same summary information relating to the ADE's that took up the SWS financial year ending 30 June 2022.</p>
<p><b>3.</b></p>	<p><i>Any reports or other documents (excluding emails) in the possession of the Commonwealth of Australia as represented by the Department of Social Services that show the number and name of the ADEs that graded employees at each of the wage levels referred to in table A28 of the Fair Work Commission New Wage Assessment Structure Evaluation Report (<b>Evaluation Report</b>). To the extent that any document duplicates the same information relating to the names of the ADEs that graded employees at each of the wage levels referred to in table A28 of the Evaluation Report, only one document containing this information needs to be provided.</i></p>	<p>The Department does not have the described documents in its possession.</p> <p>The seeking of the described documents may arise from a misunderstanding of the Department's role in the New Wage Assessment Structure trial (<b>Trial</b>).</p> <p>While the Department funded the Trial and was involved as part of the steering committee for the Trial, it was not involved in gathering data for the Trial or preparing the content of the Evaluation Report. As a result, the described documents are not the Department's possession.</p>
<p><b>4.</b></p>	<p><i>Documents (excluding emails) that, in respect of the wages tools referred to in Table 19 on page 75 of the Evaluation Report, show:</i></p> <p style="padding-left: 40px;"><i>(a) the current wage level (classification and hourly rate after assessment) of each of the sampled employees, by wages tool;</i></p> <p style="padding-left: 40px;"><i>(b) the wage outcomes (classification and hourly rate after assessment) of each of the sampled employees if the FWC preferred wage assessment structure is applied, by wages tool.</i></p> <p><i>To the extent that any document duplicates the same information in relation to the matters set out at (a) and/or (b) above, only one document containing this information needs to be provided.</i></p>	<p>The Department does not have the described documents in its possession, custody or control.</p> <p>The seeking of the described documents may arise from a misunderstanding regarding the Department's role in the Trial.</p> <p>While the Department funded the Trial and was involved as part of the steering committee for the Trial, it was not involved in gathering data for the Trial or preparing the content of the Evaluation Report. As a result, there are no described documents in the Department's possession, custody or control.</p>

		<p>Even if the Department had in its possession, custody or control these documents there may be a question as to whether any documents containing this information could be released without reasonably disclosing the identity of a natural person.</p>
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The Department remains ready and willing to assist the Commission further should it facilitate the further progression of the 4 yearly review.

If you have any questions, please let us know.

Yours faithfully



Partner responsible:  
Emma Gruschka  
e: [Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)

Contact:  
Ashley Sherr, Senior Associate  
t: +61 3 9291 2224  
e: [Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)