

From: Chambers - Hatcher VP
Sent: Wednesday, 20 September 2017 2:57 PM
To: 'Noni Lord'; 'RJohnson2@baptistcare.org.au'
Cc: AMOD
Subject: RE: Supported Employment Services Award Order to Produce

Dear Parties,

I refer to the attached correspondence.

The Commission revokes the order against BaptistCare. No further action needs to be taken in compliance with that order.

Kind regards,

Ingrid Stear
Associate to Vice President Hatcher

Fair Work Commission
Tel: (02) 9308 1812
Fax: (02) 9380 6990
chambers.hatcher.vp@fwc.gov.au

From: Noni Lord [<mailto:noni.lord@aed.org.au>]
Sent: Tuesday, 19 September 2017 4:46 PM
To: Chambers - Hatcher VP
Subject: RE: Supported Employment Services Award Order to Produce

Dear Ingrid

We attach our letter to Vice President Hatcher in relation to the above matter.

Regards
Noni

Noni Lord
Legal Assistant
AED LEGAL CENTRE

From: Chambers - Hatcher VP [<mailto:Chambers.Hatcher.VP@fwc.gov.au>]
Sent: Tuesday, 19 September 2017 3:06 PM
To: Noni Lord <noni.lord@aed.org.au>; Kairsty Wilson <kairsty.wilson@aed.org.au>
Cc: 'RJohnson2@baptistcare.org.au' <RJohnson2@baptistcare.org.au>
Subject: FW: Supported Employment Services Award Order to Produce

Dear Ms Lord,

I refer to the below and attached.

The Commission requests that you provide your urgent response.

Kind regards,

Ingrid Stear

Associate to Vice President Hatcher

Fair Work Commission

Tel: (02) 9308 1812

Fax: (02) 9380 6990

chambers.hatcher.vp@fwc.gov.au

From: Robert Johnson [<mailto:RJohnson2@baptistcare.org.au>]

Sent: Tuesday, 19 September 2017 12:27 PM

To: Chambers - Hatcher VP

Subject: Supported Employment Services Award Order to Produce

Dear Vice President Hatcher,

RE: AM2014/286

Please find attached email response from the Chief Executive Officer BaptistCare NSW & ACT to an Order to Produce served by AED Legal Centre. An original of this response has been forwarded to your Chambers via Australia Post on 18 September 2017.

You might kindly direct any enquiries in this matter to me.

Kind Regards,

Rob Johnson

Project Manager – ER & Workforce Strategy

People & Strategy Division

18 September 2017

Email: Chambers.Hatcher.VP@fwc.gov.au

Vice President Hatcher
Fair Work Commission
Level 10 Tower Terrace
80 William Street
EAST SYDNEY NSW 2011

Dear Vice President Hatcher

Re: AM2014/286 Supported Employment Services Award – Notice to Produce Orders

We refer to the order served on *The Proper Officer* BaptistCare (NSW & ACT) at Level 2 22 Brookhollow Avenue BAULKHAM HILLS NSW 2153, and issued at the request of AED Legal Centre in the above matter.

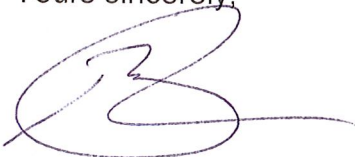
BaptistCare NSW & ACT formally seeks to have this order set aside on the grounds that the assessment tool referenced therein is no longer in use. The relevant facts supporting this request to set the order aside are as follows:

1. The named Assessment Tool – *the Hunter Contracts Wage Assessment Tool* – has not been used by BaptistCare NSW & ACT (formerly Baptist Community Services) since 30 November 2012.
2. The named Assessment Tool referenced at clause 14.4(b)(vii) of the *Supported Employment Services Award* applied prior to 30 November 2012 in relation to a program entitled *LifeCare Employment Ventures* (LEV) operated by Baptist Community Services – NSW & ACT and funded by The Commonwealth Department of Family Housing Community Services and Indigenous Affairs (*FaHCSIA*).
3. Following a call by FaHCSIA for expressions of interest to take up the funding for the LEV, Endeavour Industries Cnr Vincent and Edgeworth Streets Cessnock was the successful tenderer.
4. The then Baptist Community Services – NSW & ACT agreed by formal Deed executed on 26 November 2012 to transfer all assets and staff of the LEV to Endeavour Industries effective from 30 November 2012.

5. In accordance with the terms of this Deed, all Baptist Community Services – NSW & ACT employees engaged with the LEV were terminated on 30 November 2012 and received all entitlements as at that date.
6. In accordance with the terms of this Deed, Endeavour Industries commenced operation of the LEV on and from 3 December 2012 with all existing LEV employees engaged by Endeavour Industries from that date.
7. To the best of our knowledge the *Hunter Contracts Wage Assessment Tool* accordingly ceased to be applied from the 30 November 2012.
8. In regard to (7) above, we note that the Endeavour Wage Assessment Tool is incorporated at clause 14.4(b) (xix) of the *Supported Employment Services Award*. This Assessment Tool has also been subject to a similar request to set aside in correspondence from the AED Legal Centre to the Vice President dated 15 September 2017.

We look forward to your consideration to set aside the order in this matter.

Yours sincerely,



Chief Executive Officer
BaptistCare NSW & ACT

Liability limited by a scheme approved under Professional Standards Legislation

2011 LIV Community Lawyer of the Year Award | 2013 Tim McCoy Award | 2014 HESTA Social Impact Award

19th September 2017

Email: Chambers.Hatcher.VP@fwc.gov.au

Vice President Hatcher
Fair Work Commission
Level 10 Tower Terrace
89 William Street
EAST SYDNEY NSW 2011

Dear Vice President Hatcher

Re: AM2014/286 Supported Employment Services Award

We respond to the email received today at 3.06pm from your Associate with an attached letter from the Chief Executive Officer of BaptistCare.

Whilst we understand that the named Assessment Tool has not been used by BaptistCare NSW and ACT since 30 November 2012, this is not to say that it will not be used again in the future.

We are concerned with the number of responses from ADE's requesting the Order To Produce be set aside due to that Organisation's discontinued use of a specific tool. We assume that in requesting orders be set aside, that they are agreeable to the applicable Assessment Tool being removed from the *Supported Employment Services Award*.

We are concerned that if these tools remain in the Award, they may at any time be put back into service. As such we reiterate that we consent to the Notice To Produce to be withdrawn from BaptistCare and any other ADE who raises the same issue as long as they understand the implication that we continue to seek the exclusion of their Tool.

If you have any queries in relation to the above, please email us at 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



Kairsty Wilson
Principal Legal Practitioner
AED Legal Centre