



There are more than 700,000 Australians with intellectual disability and complex associated needs. There are more than one million family members who support them.

Our Voice Australia is a voice for those who cannot self-advocate.

www.ourvoiceaustralia.org.au

22 July, 2022

IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD 2010

This submission is provided in response to paragraph 4 of the Fair Work Commission (FWC) Directions issued 31 March, 2022. It is submitted in our primary role as advocates for disabled family members who are supported employees (our members) working in Australian Disability Enterprises (ADE's) – both small and large services in regional, urban and metropolitan Australian.

OUR voice is **THEIR** Voice.

Following the recent closure of ACTIV services in Western Australia, paras 359,360 and 361 of FWC [2019]FWCFB 8179 are now substantiated fact. Some 756 supported employees, many of whom are our members, have been made redundant due to the financial unsustainability of their employer. The majority will not find alternative employment- certainly not in open employment and probably not in supported employment. The emotional, stress and social cost for those employees has been high. They are a group of people with high support needs, for whom security is uppermost and for whom change is difficult. Redundancy or being “sacked” is not something they understand, or ever thought possible.

The ACTIV Advocacy Action Team is our Western Australian Representative. They will be providing a separate submission to introduce the human face of these disabled ADE workers, whose needs have not been met by the National Disability Strategy, the National Disability Advocacy Program (NDAP) or those who claim to be (for ease of reference) the “*employee parties*” in these industrial proceedings.

Our submission is underpinned by our Position Paper – provided as *attachment 1*

The 18 month reprieve for those 756 disabled ADE workers made redundant because of the National Disability Insurance Scheme (NDIS) funding mechanisms, the projected significant wage increases (*these proceedings*) and the undisputed dual role (discussed in a later section of this submission) of this business model, confirm our position that a new wage structure, no matter what the final determination by the Fair Work Commission, will not solve the problems for ADE's. The additional funding for the ACTIV ADE's is for 18 months, but the majority of those workers face the “*calamitous outcome*” of losing their jobs due to the financial unsustainability of their employer. This is almost 1/10 of those estimated by the Wage Trial Report (*Attachment 2*)- to be at high risk of job loss.

The subsequent claim by the AED Legal Centre and the Unions to be representing ADE workers in these proceedings reinforces, and exemplifies, our contention that:-

(i) the wage outcome, whatever the final industrial decision, will not solve the sectoral problems and a new national concept (*Attachment 3*) based on that decision, must be the basis of a revised national concept, as proposed in our Position Paper,

(ii) the ADE denigration, by external parties is actually **reverse ableism** (*de-differentiation*) as explained in *attachment 4*.

From that basis we provide responses to matters under consideration:

Position Papers :-

1. ABI Employer Position Paper

- Endorses our independent view that “perhaps there should be more Grades and/or different levels within the two Grades” (*our ref 4b1(iii)*). Their suggestion warrants further investigation.
- Education and timing are paramount with such a significant change in wage structure. We cannot afford to get this wrong – the human cost is too high.
- DSS Funding capacity and commitment underpin everything and the DSS submission does not provide any solution. Eight years, as suggested is probably necessary based on legal precedent

2. Joint AED & Union Position

We totally reject the following points in their position paper.

Point 2: *For ease of reference, the parties to this position paper, are referred to as, the “employee parties”.*

Response: This joint claim results from the application of “reverse ableism” because:-

1. Union membership of the most vulnerable ADE employees is either nil or minimal. Our members would never have had the opportunity to even see a union delegate, in most cases, let alone sign up to become a member and have them advocate on their behalf and
2. AED Legal Centre is now actively campaigning, using Government funding, for the closure of ADE’s claiming that ADE’s are segregated – and not supported employment. Therefore, they state, they should be closed. Their mantra of “*Segregation is Discrimination and should end*” – as proclaimed on <https://www.dpoa.org.au/endsegregation> is at odds with this claim by AED Legal Centre that they represent the ADE workers in these proceedings. They do not. They never have. On the contrary they have, along with 50 other funded advocacy groups (*Refer Appendix 5*), become a signatory to a public campaign position paper stating, among other things, that employees (whom they now claim to represent) are “*warehoused in a segregated and exploitative work-place*”. That’s not what the 756 retrenched workers (our members) in Western Australia feel.

Point 18: *The employee parties (AED Legal and the Unions)consider that, in deciding how to approach the determination of minimum wages for disabled employees covered by the SES Award, the Full Bench assigned disproportionate weight to the impact on ADE employers of increases in their employees “minimum” wages.*

Response: This response indicates a lack of lived experience and advocacy representation in ADE work-sites. It further demonstrates a total lack of understanding about where this employment model fits as a critical thread in the social fabric of Australia. No business, in to-day’s economy, can survive the un-contradicted magnitude of the wage increase projected by the Wage Trial- or the Supported Wage System (SWS) - modified or otherwise.. We do not speak for service providers but we do understand that there can be no argument about **the amount of wages** paid by the employer if the alternative is **NO** wage at all. We provide (*attachment 6*) as a reminder to all parties of the joint objective of all parties during almost 5 years of FWC guided mediation. We developed and agreed on those mutual outcomes – now we are facing unacceptable job losses, with more on the horizon.

Point 23:

“The Full Bench will be mindful that ADE employers have continued to enjoy the benefit of wage tools found by the Full Bench, over two years ago, not to comply with the wage standards prescribed by the FW Act. This is an undesirable state of affairs. “

Response:

As the employee party who has represented ADE workers in industrial matters since 2003 we would expect the Full Bench would also be mindful that the evidence provided by proponents of both the existing suite of wage tools, and the SWS, modified or otherwise, found that both the wage assessment processes were past their use-by date and didn’t meet the standards required under a Modern Award. This conclusion led to the Fair Work Commission New Wage Assessment Structure Trial Evaluation (The Wage Trial) and the proposed preferred position of the Fair Work Commission – now the subject of these proceedings.

It is reasonable to suggest that the delay between the 2019 decision and these proceedings was created by 2 factors. Neither of these issues created “*benefits*” for the ADE employers, their employees or family advocates for ADE workers. It was quite the contrary, in fact, for the employers and the family advocates of the ADE employees. The factors which increased the expenses for ADE employers, their family advocates and created further insecurity for all throughout the ADE sector are:-

(i) COVID – which was beyond the control of anyone, and

(ii) Federal Court appeal by AED Legal which cost family advocates about \$10,000 of their own meagre personal income and an estimated \$250,000 for the other respondents ...and the appellant – AED Legal. The case was heard over two days, was decided in 45 minutes with a unanimous decision by the Full Bench to dismiss the AED Appeal (*AED v Cwlth & Ors [2021]FCAFC 36*)clearing the way for the Wage Trial to commence.

Point 23 is tantamount to the pre-emptive threat issued by the funded advocacy network after their BSWAT decision (*Nojin v Commonwealth & Another [2012]FCAFC 192*)) win. Public rejoicing that “they did not believe in services , that they “got the BSWAT, now we’ll go after all the other competency

tools– and that the outcome would have a “*huge impact*” preceded the BSWAT compensation case which resulted in a pay-out scheme of \$105+million, plus all the associated on-costs.

But it didn't end there>

The extension of transition time granted by the Human Rights Commission was further challenged in the Administrative Appeals Tribunal, for the same reason being instanced in Point 23. (*AAT 2016/0187- 2016/1854 – PWDA v Human Rights Commission HRCOA*). That was discrimination, where it was also formally argued that submissions by family advocates was given more weighting than the ADE workers who provided their own submissions against the extension given for an orderly transition. That Appeal by PWDA,/AED was also dismissed. It would have established “*legacy claims*” against services by extending the basis of the *Nojin* decision to include ADE workers with other disability types and not a primary intellectual disability diagnosis.

We provide this background because history is the best determinant of the future – and we are covering the same ground as we did in 2003, 2012, 2016, 2018 – as now. *Appendix 7* is included as an important part of our submission because Point 23 is interpreted by family advocates for ADE workers (our members) as a pre-emptive warning. The BSWAT was determined to be discriminatory – which we agreed. However, as a party to the AIRC (Australian Industrial Relations Commission) and a member, appointed by the AIRC, of the ICC(Industrial Consultative Council) we also knew that the Full Bench directed the perceived discriminatory element could easily be corrected using the statutory AIRC agency. There is no evidence that this directive was followed. We stand to be corrected – if AED can advise the case number and how Mr. Nojin remained in his supposedly discriminatory employment for so many years after 2004. Because of the length of time – and subsequent technology changes we cannot provide a web-site, but have done the best we can by providing *Appendix 7* and relevant excerpts around those facts. We encourage all parties to be aware of this appendix (relevant to this Point 23) and make their own determination.

JURISDICTIONAL MATTERS

We support the position of ABI on behalf of the employers.

DUAL FOCUS OF AUSTRALIAN DISABILITY ENTERPRISES

We rely on *Nojin v Commonwealth and Another [2012]FCAFC 192 – para 33* as the basis for our rejection of elements of the witness statement by Sharon Dulac (Combined AED & Union submission- *Para 9*) that ADE's (“*most*” ADE's) no longer operate on the social services models of the past. *The vast majority are viable commercial businesses who tender for commercial contracts and target contracts suited to their work-force. I am aware of a number of ADE's who pay the National minimum wage and remain viable.* There is no quantification of what percentage of the national overall cohort are the “*vast majority*”, where they operate, whether the ADE component of the business is cross subsidised by segmentation within the business model and whether a niche element of the market, either permanently, or sporadically has created a spike in profitability which may, or may not be expected in the future.

Para 33, of the Nojin Decision, in providing comment about the differing paradigm that is the ADE, referenced the linkages between the ADE model and the Social Security System. That linkage dictated “that ADE’s must have, at their core, a dual focus, the provision of supported employment and the operation of a commercially viable business. Their duality of focus demands that they must balance two effectively competing requirements to achieve success. This “dual focus” is generally accepted as the business model being structured to meet the social (unproductive time) and work (productive time) requirements and capacity of the workforce. That workforce (comprised 71% of those in the ARTD Wage Trial (page 10) Report had a disability and it is generally accepted that the majority of employees in the ADE’s have an intellectual disability – with many also having additional complex needs.

Further dicta of the decision notice indicated that, at that time only 51% of ADE’s were viable enterprises. The public argument of the media release by Inclusion Australia – *“Real Businesses pay Real Wages”* that unviable businesses should be closed and the employees transitioned to day services which is NOT employment, continues to play out in the ADE sector to-day – as confirmed by the 756 employees in Western Australia.

Further point 18 (Dulac witness statement) claims that despite the disability of the employees *“many services have, however, successfully made the transition to the National Minimum Wage and continue to operate, flourish and provide increased opportunities.....”*. Again the quantum of “many” – like *“the vast majority”* is not supplied so objective analysis and measurement is difficult.

These claims become further confusing with comments 27 and 29 of the witness statement by Walter Grzentic who argues that ADE’s do not operate in a different paradigm. We do agree *“that ADE’s operate commercially to earn income for their business....and are subject to the same business considerations”*. The latter proviso is called competition and encompasses the fight for survival in to-day’s difficult economic climate.

Point 29 of the Grzentic witness statement introduces the principal determinant of the success, or failure of the proposed new wage structure, whatever is determined after all the industrial argument. That is the quantum of Commonwealth funding to narrow the gap and whether the AEDLC camp then decide, whatever the outcome, to engage in more legal warfare by side-lining the industrial processes and using discrimination as the platform for another appeal and compensation claim given the history in the Federal Court (2) and the Administrative Appeals Tribunal. (*Appendix 7 and Point 23* of the combined AED and Union Position Statement refer.

Mr. Grzentic states *Point 29* that *“prior to the introduction of the NDIS the Commonwealth Government was the principal source of ADE funding. It provided funding to ADE’s using a case-based funding model. This funding has now transitioned to ADE supported employees receiving a NDIS Plan. The NDIS Plan includes the funding to provide the necessary support for those working in ADE’s. ADE’s now invoice supported employees NDIS Plans, for the ADE provided services. This has changed how ADE’s get their funding”*

This positional statement does not support the AED/Union and Grzentic contention that ADE's operate in the same paradigm as other open employment enterprises. The NDIS does not remove the dual focus purpose of the ADE model. The conclusions drawn by the dicta at Para 33 of the Nojin v Commonwealth decision are as valid in these proceedings as they were in the Nojin proceedings. The linkages to the Social Security System and commercial viability remains dependent on two effectively competing requirements. Commonwealth funding remains the determinant of economic survival for the ADE business model of supported employment for the current workforce. The only difference is the new method of funding. What was previously "block funding" is now person-centred funding that goes with the NDIS participant wherever they choose.

As the advocate for the ADE employees and in support of the family advocacy which provides their only voice (and emotional and physical support) it is not our role to defend Service providers. It is obvious there is room for improvement in making the supported employee more central in the delivery of services and this is referenced in *Appendix 4*.

The current NDIS person-centred funding model was welcomed but the Commonwealth (albeit a different departmental arm of the Federal Government) still has to provide adequate funding to provide their part of the dual focus – which remains the core component of supported employment. That has never been challenged by anyone. It is the core concept of the ADE business model. It seems,, however, that the campaigning of the "reverse ableists" could be gaining traction. They seem to have convinced those who should know better, that ADE's are just like other businesses because of the similarities of most of their commercial operations.

Having established that the Commonwealth (no matter their delivery model) will determine the success, or failure of any new wage system, we address their submission.

THE COMMONWEALTH

The Commonwealth's submission raised some critical issues around the availability and cost of trained assessors for the assessment processes of wage grading and classifications with the proposed approach to the new wage system.

We summarise our response as follows:-

1. The additional cost for external assessments would be \$12million per year (dot points 11 and 12) of Commonwealth submission. This equates to an increase of 1289% in demand with additional costs for recruitment and training. This level of increased costs for external assessments is far too high – on a yearly basis.

The Trial Report indicated at page 123 that there were not marked differences between the internal and external assessment results. The variations were at an acceptable level, so we accept there has to have been a common understanding between both internal and external assessors in the application of the principles of the process. In an ideal world it would have been preferable to employ external assessors BUT, they aren't available and the expense of having them, even if they were available, cannot be met.

We support the Alternative Approach proposed by the employer submission at Page 29 of their submission plus attachment A.

OPERATIVE DATE

ADE employees, and we, their family advocates have lived the experience of new wage systems which were implemented too hastily, or took too long and ended up being the subject of appeals to various legal agencies.

To ensure the new system can be successfully implemented we support the 8 year phasing- in approach with graduated increases. The significant increase in costs could not be fully borne in a shorter time frame.

This phasing in of the wage increase would assist with Federal Government budgetary considerations, reduce the risk of financial unsustainability for the ADE's and assist families and employees in understanding the new system.

This would reduce the level of insecurity and anxiety felt by employees and their families around the implications, if any, of the interaction between their ADE wage and their entitlement to the DSP. This was a matter raised in the Wage Trial Report and one which we understand. A longer operative date, with a phasing in period supports education, communication and change management strategies for all parties, whilst adding to the possibility of a successful outcome.

OTHER CONSIDERATIONS:

Rights at Work Clause

2. We submit for consideration by all parties a minor amendment to the Rights@Work Clause in the Award because the recent suddenly announced closure of the ACTIV ADE's in the media should have been handled more appropriately than it was.

The Clause requires the involvement of nominees/representatives/advocates to provide support for vulnerable ADE employees in times of "*significant workplace change*". There is nothing more significant than losing your job as a "*workplace change*". Words like redundancy and retrenchment were foreign to these employees – and they first learned of it in the media – just like everyone else.

It is a matter for individual employers how this requirement under the Award is handled, because the employer has "consulted" since. The employees did receive an "Easy-Read" letter - which was simply "gobble-de-gook" to them. We hope there are no more occurrences like this WA example, but the Clause is useless if it does not have enough "teeth" to ensure that employees are consulted, and provided with the necessary support, before it becomes a reality and media frenzy.

The suggestion is that the words “*in a timely manner*” might ensure employers respond with a better process than the one to which these employees (our members) were subjected. We provide this comment as a preliminary submission because it is relevant to all the parties and we would value their input. *Refer Appendix 8*

We have further suggestions as to how employees might be able to be the centrepiece of the ADE as the wage restructure becomes a reality

Disability Sector National Consultative Council

We submit that, as part of the operative and phasing –in stages of the proposed new wage structure, when determined, the Full Bench give consideration to re-constituting this body (previously known as the Industry Consultative Council (ICC) as an over-seeing entity to monitor implementation, establish milestones and protect the implementation from being derailed by external influences (*Appendix 7*).

We would hope that the determination will be supported by all parties in a spirit of goodwill and collegiate co-operation – as it did before the introduction of the BSWAT.

The FWC and the DSS (with the power to co-opt – the DES, for example) would be the lead agency and, with the new technological virtual meeting capacity the costs would not be a disincentive for the Federal Government as part of their funding commitment. It would also not be too onerous for any of the stakeholders.

We would request that Our Voice Australia be a representative but also encourage the inclusion of an ADE employee who can bring to the table feed-back on behalf of the employees. Our recommendations to employers, if accepted, would re-establish internal worker committees within the work-sites and employees would be given training and support in self - advocacy and meeting procedures.

With respect we would also suggest that the employee representative has a primary intellectual disability because that would be representative of the majority of the ADE employees.

Social Enterprises – a stepping stone from the ADE to Open Employment

It is evident that the step from an ADE to open employment – as the only acceptable form of employment - has been a “step too far”

In making their determination the Full Bench needs to feel that there is a genuine attempt to make this new wage structure work. That won't happen unless the present system addresses the known problems that have stopped better transition to open employment – for those able to take that step.

This has been a long journey for the statutory Industrial agency – and family advocates. Our inclusion as necessary stakeholders, has been at the insistence of the AIRC/FWC – never by Government or the advocacy network.

This would require a link between the State education system, and some research into the Social Enterprise model as that stepping stone from school to work and/or from ADE to Social Enterprise to Open Employment. This could be an item for the suggested re-introduction of the ICC- above.

Social enterprises mean different things to different people and defining that, as a suggested stepping stone, would be necessary. (*Refer appendix 3*)

We provide this response on behalf of ADE employees (our members) and their family advocates to the matters raised within the submissions from other parties.

We cannot re-iterate, strongly enough, the adverse impact that campaigning by funded advocacy activism (using taxpayer funding) is having on the business viability of ADE's. No business, in today's difficult economy is going to place, or even renew contracts with ADE's who might have to close down at a moment's notice. Yes - they might place a small job - just to relieve their own internal business pressure - but there is no surety of business in the future. ADE's cannot exist on piecemeal commitments, a difficult market under deliberate attack by unrepresentative activists, actioning their organisational "reverse ableism" in public campaigning to close the ADE's and displace the vulnerable employees, as well as Government policy which is deliberately denying a voice to the nation's most vulnerable workforce. This is the 21st. century. ADE's, their workers and our communities are NOT "living in the past", family advocates are NOT "institutional" advocates and we, as the ONLY voice for the employees, know that the path forward is one of working together to learn from history as we map out the future. And - it cannot be more of the same

OUR VOICE AUSTRALIA is THEIR Voice - the voices which plead, within these pages. "See Us - Hear Usplease.

Compiled, with help from our Western Australian members by:-

Our Voice Australia

Mary Walsh OAM, CPA, AIFS, JP(Q)

Regional Co-ordinator

FWC Representative

LIST OF ATTACHMENTS

1. Position Paper
2. ARTD Report
3. National Concept Plan
4. "Reverse Ableism" - "Argy Bargy" - De-differentiation
5. Funded advocacy agencies supporting the national "Segregation is Discrimination" campaign
6. Statement – Joint Objectives Fair Work Commission
7. History of the BSWAT
8. Rights @ Work Clause



21 February, 2022.

Supported Employment Services Award 2020 (AM2014/286)

Pursuant to the above, and in accordance with the directions therefrom (*Fair Work Commission Directions dated Sydney, 15 February, 2022*), we provide our position statement in relation to this matter. Our position statement is underpinned by, and relies upon, the following irrefutable facts:-

- (1) Australian Disability Enterprises (ADE's) have a dual focus of (i) **employment** and (ii) **social**.
- (2) The majority of employees have intellectual disability as their primary disability.
- (3) Intellectual disability in national employment spheres is approximately 3.5% of the disability population – refer <https://engage.dss.gov.au/new-disability-employment-support-model/>
- (4) The Supported Wage System (SWS) was never designed for ADE's but was developed for open (mainstream) employment.
- (5) Our Voice Australia has been recognised as the legitimate voice for our disabled family members working in the ADE's since 2004.
- (6) Social policy, and outcomes, are outside the ambit of the independent industrial umpire (FWC), but have always, historically, been recognised by it. Refer [359] in [2019] *FWCFB8179*.

Our position statement to the ARTD Report (The Report) is provided from the perspective of the workers, their families and carers. Whilst we accept The Report is based on “**work value**”, our position is based on the worker’s perspective of “**the value of work**”. That value is supported by their families and carers, by Australian communities, by all levels of Government and the Fair Work Commission itself.

The Aims of The Report (1.3.1page 19) were “**to understand the practicality and cost impact of the FWC’s preliminary determination, as well as identify transitional arrangements, including supports required and recommended timeframes.**”

The Report confirms a lack of understanding by the supported employees about how their wages are worked out now – or would be in the future. We would go further and comment that the lack of understanding is not restricted to the workers but can also extend to their family carers and other support networks, if such networks exist. For many of our members it has never been about the money. The ADE is not just a job – it’s their life. The DSP is their safety net.

4(a) Our overall position statement is, as follows:-

The Report does not provide sufficient confidence that this proposed new wage restructure will have any greater chance of success than the 2016 modification of the SWS, without a practical and workable injection of funding by the Department of Social Security (DSS) to overcome the financial impact

If that hurdle is overcome, the suggested wage restructuring will not work without re-structuring the sector, putting the disabled workers front and centre of the exercise, capitalising on, and expanding, the under-utilised benefits within the sector, and reducing the risks that encircle it.

We have formulated a national concept which cannot be delivered in the current, limited space. The Concept provides an embryo to be considered by all interested parties, because the historical band-aiding in the past 2 decades has not been successful. Only by understanding the reasons for the failures can we ensure any success for the projected wage restructure, whatever the final industrial outcome.

Our Concept is both national, and evidence based, builds on our involvement over the past 35 years, puts the workers first, and is needed to ensure that our Rights @ Work Clause in the Award is workable, practical and not just tokenistic. We provide a brief overview of our change management concept on page 5. Widespread job losses are unacceptable.

A detailed overview of why the Concept, which requires a restructure of the wider sector, is required, is available should the Fair Work Commission request it.

4(b)

[9] (1) By linking the Aims of The Report, with the outcome of The Report and accepting that the cost impact is both unacceptable and unsustainable, we respond as follows:-

1(i) The 3 key limitations of the Trial (page 8) pose critical implementation outcomes because the bar has been set to no reduction in current wage, with further ceilings on a minimum wage.

(ii)The Report confirms there are challenges with consistency and accuracy in the use of the SWS (Page 12). By clarification email with DSS dated 23-02-2022, we are advised “*This was based off interviews with the subject matter experts for the Trial who advised us of these challenges, including in supported and open employment. The SWS is accepted as the base tool, despite the existing flaws, so significant re-shaping is still necessary.*”

(iii).Introducing the two Grades does not seem to have provided either clarity or workability. The Report does not indicate which of the previous Grades 1-7 was the most commonly used level. Consequently we question the lack of operational clarity about where the employees fit, within the Grades and existing Levels 1-7. The Report confirms this confusion. Perhaps there should be more Grades, and/or different levels within the two Grades. The aim was to modernise the Award, remove the existing wage tools and reshape the SWS to compensate for the removal of the competency factor contained within the tools being removed – i.e.- use a wage tool that relies totally on productivity.

(iv) The Report confirms there is confusion around the Grading “gateway”, and the lack of a consistent comparator. We are particularly concerned about the reported difficulties of timing duties and tasks associated with the 8 business activities listed on page 92. The listed businesses are core business for many ADE’s. Some of these core activities will be seasonal, some will be contract driven in a climate of fierce commercial competition, and all will have “unproductive” time. Productivity and quality are critical to business output, but the starting point of that is to ensure, as much as possible that the proposed wage structure is workable, meets the varied needs of worker capacity, competency and limitations. We don’t believe, in its current form, that the re-structure does that.

(v) The key component to wage determination is assessing the competency and productivity of the worker, for the task, sub-task, duty, chore, whatever. Whilst supporting independent assessment, the costs of doing that assessment, of training the assessors, of supporting the employees through the processes and communicating the processes and changes are not a key component of The Report. The estimated physical quantum, is 161 services, needing 16355 assessments @ 5 hours per person, plus the travel and ancillary costs associated therewith. If the Federal Government provides the necessary finances to cover the wage shortfall, there is no workability and/or practicality without addressing the issues of assessor availability, inculcating the ADE concept within those assessors, the training, travel and supports costs for same - and the quantum of these costs as part of the overall cost implications

4b [9] (2) –Minimum Wage. [372] [2019] FWCFB 8179

In supporting the concept of a minimum wage, the two Grades have a ceiling of \$7 for Grade A and \$14 for Grade B, we question that there is sufficient flexibility within those ceilings, and 2 Grades for the ADE dual focus. There is an acknowledged lack of a consistent comparator for the various duties/tasks, a lack of ADE concept trained assessors, and assessors per se, yet the only differentiation between the Grades is

- (a) “**constant**” monitoring for Grade A changing to “**regular**” monitoring for Grade B,
- (b) “**three sequential actions**” - Grade A changing to “**more than three sequential actions**” -Grade B
- (c) The use of “**mechanical or electrical equipment or tools**”. – Grade B

The wage difference between the two Grades is significant. Whilst every ADE is different and exists because a job has been created to meet the limitations of the employees in that ADE, there are some ADE’s providing some similar, industry products. Equally, a generalisation of capacity and wage determination should ensure that the more highly skilled are not penalised on the perceived basis of equity for those with less capacity. The costs of benchmarking have always been ruled out as too expensive.

We have stated that the current Grades need re-consideration with, perhaps, more grades, more levels within the grades, or maybe an adjustment of the ceilings. Ultimately, the categorising of the wage entitlements must meet the necessary standards, but it makes no sense to the workers, their families or carers, for wage levels which price the whole business out of the market and cause widespread unemployment, great personal distress and community disbelief. The workability and practicality of the proposed new wage structure must meet the commercial and social criteria for a vulnerable cohort whose safety net is their DSP.

4b[9](3) – Operative date for the new wages structure. [2019]FWCFB 8179

At best The Report suggests transition could take “*a few years*”. We agree. The ADE employees, their families and carers have lived through the exercise of introducing a new hybrid tool into the supported

employment sector. We have lived the insecurity, the fear, the denigration and all it encompasses. We cannot emphasise too strongly the great caution needed to be exercised about how the time frames and entitlements are documented and implemented. No implementation time frame is possible until the financial impact is resolved. This then needs to be communicated to the sector, the workers, their families and carers – as well as the wider community.

Our estimate is that the “*few years*” should be about five (5). We suggest the transition needs to be staged, under the watchful eye of the Fair Work Commission, reported, and have key performance and time indicators. These require political will, the support of the Department (DSS) bureaucracy as well as the support of the wider disability organisations. We respectfully state that none of these three requirements are evident now, nor have they been evident in the past two decades.

It is obvious, from the active public campaigning, under the guise of advocacy :- <https://www.dpoa.org.au/endsegregation> & <https://www.inclusionaustralia.org.au/project/everyone-can-work> that the funded disability advocacy networks are pursuing a social reform agenda for the majority of disability stakeholders – to the detriment of the minority and most vulnerable. Whilst we respect their right to follow their ideological goals, it would be remiss of all decision-makers not to acknowledge that the industrial action of wages for supported employment is a key plank of their public agenda. The community and workers want reform with the retention of the ADE model as an option for those who needs cannot be accommodated in the open (mainstream) employment market. The protagonists for closure of ADE’s, portraying them as segregated employment, not supported employment, have both the resources and the determination to continue their activism.

The social atmosphere and outcomes are not the responsibility of the Fair Work Commission. The *argy-bargy* of the advocacy network’s public activism outside the FWC and in the wider community has, however, been accorded some weight, on behalf of the workers, their families and carers, by the Federal Court decision [2021] FCAFC 36 , para 110, page 35.

It would be remiss of us not to acknowledge that the constant public activism will probably continue, if not escalate. Consequently, we need to acknowledge that, just as it has already created delays in necessary reforms, we need to accept that’s likely to continue. Accordingly we have set a longer time frame than we would prefer, but we have done so to exercise caution, to protect the workers, their family carers and the sector by proposing a total sector restructure. In its’ entirety we seek to capitalise on the changing business and social world (post COVID), find the middle ground, and take “all parties” forward in a united sector reform process, during a period of technological change, with the wage restructure as the central nexus.

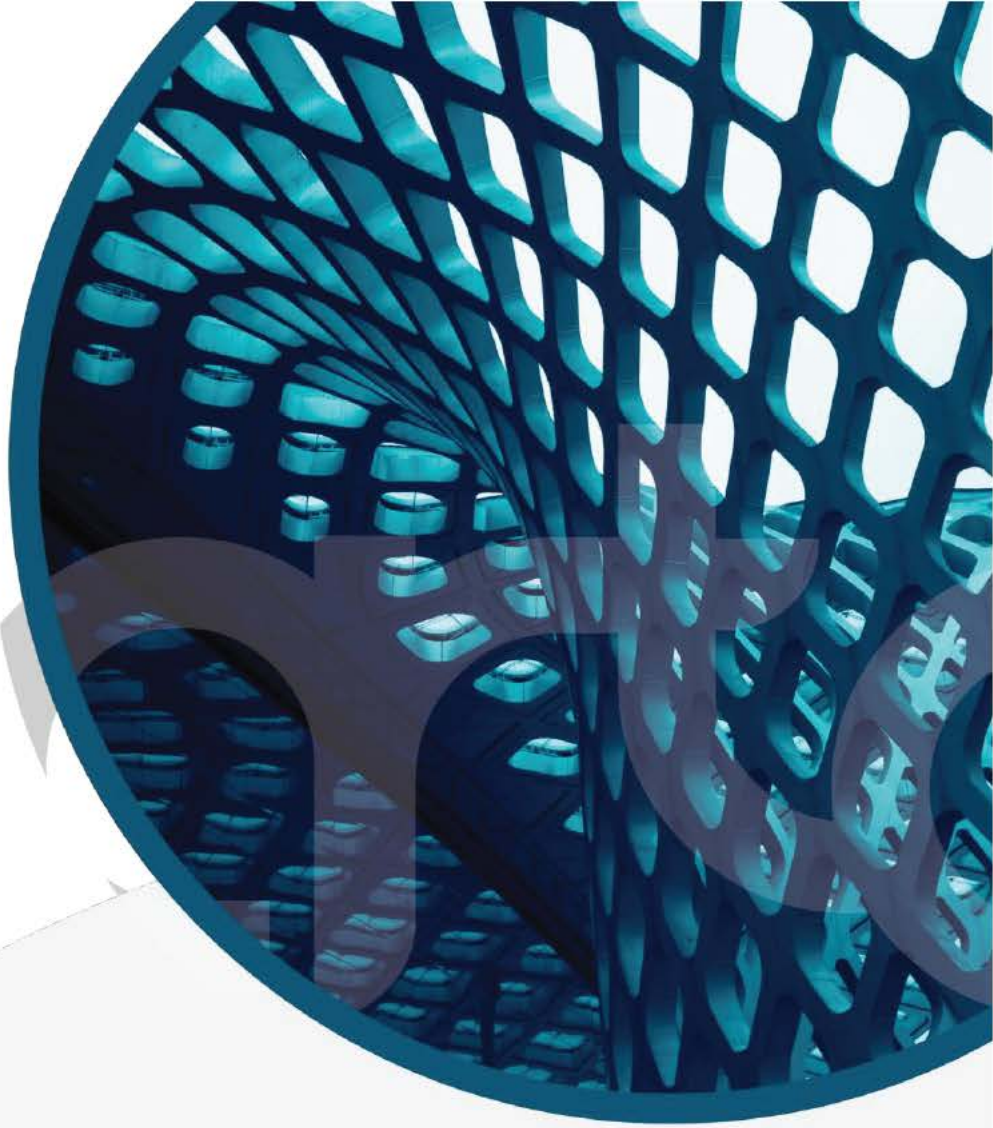
OTHER ISSUES :

The other issues of **Support, Communication, Change Management, and Communication Plans** are all complicated by the existing silos that separate active participants in the wage restructure from the decision makers and other essential stakeholders like The National Disability Insurance Agency (NDIS), Carers Australia, the United Nations, the Human Rights and Equal Opportunities Commission and a history of poor communication processes that have penalised the ADE workers, their families and carers. All these issues become moot concerns, if there is not the necessary level of support from the Federal Government.. Our National Sector Concept overview follows:-

The National Concept acknowledges the necessary wage restructure as the key component of our proposed sector restructure and overall position. Restricted space allows only this brief overview – but the evidence base underpins it, and a full explanatory document is available.

1. Re-introduction of the Disability Sector National Consultative Council (previously known as the ICC- Industry Consultative Council). It has historical success as a platform to resolve industrial differences. Would include existing parties. **Assigned to FWC & DSS with the power to co-opt.** Its' dissolution in 2006 created detrimental impact on the sector, the workers and taxpayers. It would be the overarching body. Modern technology should reduce the cost of its re-establishment. It would oversee the industrial application of the new wage structure because there would be “teething problems” – no matter what the FWC final outcome. It would be reasonable to expect that the grievance mechanism within the new wage structure, and the FWC processes should ensure industrial issues are solved within industrial processes. It could monitor the transition and ensure that the key markers were met, acquitted and reported.
2. Introduce the social enterprise model of employment as a stepping stone from supported employment to open-mainstream employment – where applicable. The social enterprise model, like the ICC, is already supported by all parties (evidence-based), and we should be actively supporting its' position in the Disability Employment Sector, with links to Education and vocational training.
3. Acknowledge and resource a Peak Body for our members – whose needs differ from those of the majority of disabled stakeholders. We have also been the legitimate and acknowledged stakeholders for ADE workers, their families and carers for the past 35 years. Resourcing this Peak Body would secure “live” networks to the existing ADE’s, to the wider community, to providers and the Federal Government.
4. Providers currently have no balanced advocacy networks to call on for their workers should they need access to advocacy or Unions. Our “Rights @ Work Clause was designed to fill that vacuum, and the need was never denied. However, we can’t facilitate that without resources to work with all parties, and communicate with our own members and all external parties.
5. Better utilise, within the services, the existing worker committees. They could be used to encourage self-advocacy, obtain input from the workers, provide output to the employers and capture suggestions. They provide a good platform for self-education and linkages to other educational and employment options, programs and processes.
6. The advocacy networks would need to consider their position with their current campaigning and see if their members agree to the social enterprise model as a stepping stone to the goal of open employment for ADE workers. History confirms they do accept the social enterprise model, so it makes sense for us all to advance that common link for a better national outcome.

A diagrammatic explanation would add the other “*silos*” which sit outside this network, but are integral to it. They are the NDIS, DES (Department of Employment Services), Carers Australia, United Nations, Human Rights Commission and there might be others that all parties might feel need to be included.



FAIR WORK COMMISSION NEW WAGE ASSESSMENT STRUCTURE TRIAL EVALUATION

DEPARTMENT OF SOCIAL SERVICES

FINAL REPORT

DATE

24 NOVEMBER 2021



DISCUSSION PAPER FOR 'INTERESTED PARTIES' TO THE FAIR WORK COMMISSION DELIBERATIONS AND DECISIONS IN AM2014/286

A NEW WAGE SYSTEM FOR AUSTRALIAN DISABILITY ENTERPRISES NEEDS TO BE UNDERPINNED BY A NEW NATIONAL CONCEPT

- 1. The “*Our Rights @ Work*” Clause in the Supported Employment Services Award (2010) exists because the Fair Work Commission, and all “*interested parties*”, accepted it was needed for the most vulnerable employees on the factory floor.**
- 2. How do we make it “*Work*” for the Employees and the Sector in general, and**
- 3. The success of the new wage structure depends on a new National Concept for the Sector.**

This Discussion Paper has been prepared by Mary Walsh, mother, advocate and business-woman as the Regional Co-ordinator and Fair Work Commission Representative of Our Voice Australia - a Voice for those with intellectual disability who cannot self-advocate.

That “Voice” in this instance, is for those working in Australian Disability Enterprises.

The Concept being advanced for discussion is aimed at removing the existing, entrenched “*silos*”, and to stop the current victimisation of workers, their families and carers in a sector now facing more frustration, viability and economic pressures than ever.

1. The "Rights @ Work" Clause.

[2019] FWCFCB 8179

ATTACHMENT A

PROPOSED DETERMINATION

The *Supported Employment Services Award 2010* is varied as follows:

1. Insert the following new clause:

9A. Rights at Work for Supported Employees

9A.1 When dealing with employment matters affecting supported employees the employer shall take all reasonable steps to provide such employees with the information they require to exercise their employment rights.

9A.2 Such reasonable steps will include but are not limited to the following.

- Providing information to supported employees of their right to be a member of the union and be represented in the workplace by a union representative.
- Providing information in relation to seeking information and or assistance from the Fair Work Ombudsman.
- Providing information to a supported employee about their right to have their nominee, guardian, carer, parent or other family member, advocate or union assist them in making decisions about employment matters.

9A.3 In addition to those matters listed in clause 9A.2 the employer shall take reasonable steps to provide the opportunity to the supported employee to have their nominee, guardian, carer, parent or other family member, advocate or union involved in, or consulted or act as the employee's representative in employment matters that affect or may affect the supported employee's interests.

9A.4 Such matters shall include but not be limited to:

- consultation about significant workplace change under clause 8;
- consultation about changes to rosters or hours of work under clause 8A;
- any dispute under clause 9 or other grievance;
- wage assessments under clause 14.4(a) and Schedule D;
- any disciplinary matter; and
- performance appraisals.

143

As the party who advocated for the inclusion of this in the Award we now believe it needs to be strengthened to exercise these rights “in a timely manner” This amendment should ensure there is no repetition of employees reading about the loss of their job in the public media. This is what happened to 756 employees with the recent closure of the ACTIV ADE’s in Western Australia. The Clause recognises the inability of some of the work-force, i.e. members of Our Voice Australia, to either self-advocate or have their voice heard within their work environment. There is no more “significant workplace change” than closing down the business. The employees should have been advised before the public and that information should have been provided in an environment where support was available. .

The Fair Work Commission can only act on the industrial matter before it. Historically, and thankfully, however, it has always recognised the higher level of support needed by that

[2019] FWCFB 8179

Mr Dickens, Mr Baker, Ms Fitze, Mr Fraser and Mr Donne that if ADES were required to use the SWS as the only wages assessment tool, the result would be the loss of commercial contracts and consequently the loss of jobs in supported employment or even the closure of ADEs. Making the SWS mandatory would have varying effects on ADEs depending upon the nature of the work they performed, with the effect likely to be most significant to those ADEs which provided employment at the lowest skill levels to employees with the greatest level of disability. We note that the commercial and employment consequences for those ADEs who had transitioned from the BSWAT to the SWS had not yet fully manifested itself because, at the time the evidence was received, they remained in receipt of transitional wage subsidies by the Commonwealth which had not yet completed their phasing-out period.

[359] We consider, having regard to our earlier findings concerning the social value of supported employment in ADE’s, that the loss of employment which would occur consequent upon the mandatory use of the SWS would be a calamitous outcome. Numerous disabled persons and their carers have given uncontradicted evidence that the loss of supported employment would result in social isolation, boredom, financial detriment, a loss of skills development opportunities and a diminished sense of self-worth amongst disabled persons, with a significantly greater burden being placed on their carers and other family members. There is no evidence that this would be ameliorated by any compensating increase in open employment for disabled persons.

[360] It must be said that some of those in the AEDLC’s camp did not appear to fully share our level of concern about the future of the ADE sector should it have a very significant wage adjustment forced upon it. Mr Cain accepted that the ADE sector had a role to play, but he perceived this as being only to act as a transitional pathway for disabled persons to be placed in open employment. Mr MacFarlane opposed the ADE model outright, which he regarded as “segregated employment”. His views aligned with those of PWDA, which publicly advocates for a plan to close all ADEs and transition all ADE workers into open employment or, in the case of older workers, progressive retirement.

[361] We do not share these views. We have paid very close attention to the evidence of Ms Powell, who described the experience in the UK after a policy decision was made to close down supported employment in favour of the disabled working in open employment. The result, as we have earlier recounted, was that the vast majority of disabled persons formerly in supported employment were left without any employment at all. That is not an outcome which we are prepared to contemplate.

workforce, the dual focus of this business model, and the social outcomes. .

Australian Disability Enterprises are not a standard for profit enterprise. Unlike mainstream (“open”) employment the ADE business model is a “not-for-profit” business enterprise. An ADE must have, at their core, a dual focus, the provision of supported employment, and the operation of a commercially viable business. Their duality of focus demands that they balance two effectively competing requirements to achieve success

This dual focus has never been denied by the Federal Government, by legislative history or those actively campaigning for the closure of ADE’s. The campaigning for closure is not true advocacy. It is activism based by a group of people representing the majority of disability type and the views of professional advocates. Historically, as a minority, and voiceless group, of that disability population, our members have been victimised and held to ransom by activists who deem the enterprises to be “*segregated*” – not “*supported*” workplaces. The current campaigning is reverse ableism

The issues with the ADE’s have been adequately covered in other sections of this submission This Discussion Paper is designed to “tease-out” these issues, recognise the problems and invite suggestions from all interested parties as to how we might, as a united group, protect these workers, their families and carers from further “victimisation” . What we now have is taxpayer funded advocacy groups preaching inclusion but practising exclusion of the most marginalised members of the disability cohort.

2. How do we make it “Work” for the Employees and the Sector, in general?

In any business enterprise you cannot manage what you cannot measure.

In the current difficult economic environment, with changing “pricing” and external factors, there is a need for all the interested parties to this wage structural change to step back and “measure” the scope of the necessary changes to match the social movement, the electronic digital movement, the NDIS impacts, the inconsistencies in the Federal Government NDAP (National Disability Advocacy Program) and associated programs and remove the silos in the ADE’s to allow the supported employees to gain and build their own social worth on the factory floor, and in the social structures provided by the ADE’s.

The National Concept we propose won’t work unless the issues are addressed from the bottom up – not the top down.

We consider there are 6 steps, under-pinning the national outcome. Those 6 steps begin from within the “interested parties” to this industrial decision.

It is essential that the national concept which we are proposing is a united concept, with mechanisms to address conflict issues – as they arise. And they always will.

Part of that unity is for the national concept to be owned by the interested parties – not by Our Voice Australia and particular individuals – but by the agreement of the “interested” parties.

For the purposes of this discussion paper the interested parties are

1. The Fair Work Commission
2. The Federal Government and relevant Departments.
3. The National Disability Service (NDS) as the Peak Body for the Australian disability services sector – which includes employment.
4. The Association for Employees with a Disability Legal Centre (AEDLC), and it’s associated, funded advocacy network
5. The ACTU and subsidiary affiliates
6. Our Voice Australia as the acknowledged, and only, voice for the workers, their families and carers. That stakeholder group must also include an intellectually disabled ADE employee .

Sitting outside those 6 entities – in separate, but interested “silos” are the Human Rights Commission, The United Nations, and Carers Australia.

We address those external entities in the National Concept by acknowledging their existence and interest in this group of people with a disability Whilst the national statistics would vary outside the employment and DES programs the end result is the same. Our members and the ADE employees are a minority, in Federal Government programs and mainstream employment prospects. ADE employees, their families and carers, have been the victims of insecurity, fear and external victimisation for the past three (3) decades.

It has to stop, and it will

(i) if the funded advocacy networks accept that the voice of the most marginalised, within the disability populations, is being silenced by “reverse ableism” – clinically defined as “dedifferentiation “ This reverse ableism is being imposed from within the disability population – not by the “able-“ bodied community.

(ii) if all interested parties are unified and recognise the distinctly different needs of the group for whom we advocate.

Wheelchairs, white canes, elevators, ramps and keyboards will not solve their problems. Our members are simply part of the Australian society where decision-makers assign labels and boxes to them and their needs.

We are changing this culture, slowly, for people with other types of disability, but the employment statistics remain static. Unless this changes from within, then any external change will be hard-fought and not very successful. The last few decades confirm that.

2(i) The Fair Work Commission.(FWC)

We propose the re-introduction of the National Disability Industry Consultative Committee for supported employees. This was the body which oversaw the introduction of the Business Services Wage Assessment Tool (BSWAT) – back in 2005.

It was an initiative of the then Australian Industrial Relations Commission and the Federal Government (DSS).

Its' subsequent dissolution when the BSWAT (Business Services Wage Assessment Tool) became operational provided fertile grounds for industrial issues to be sidelined away from the industrial agency to the Human Rights Commission.

We feel the FWC has been held to ransom in the same way as the ADE workers, their families and carers. We gratefully acknowledge the FWC's recognition of the need for the workers to have a family advocate in AM2014/286 and its' predecessor

This historical data is addressed separately in the history of the BSWAT. It confirms the need for this consultative and protective mechanism – for the FWC, for the DSS, for NDS, the Unions, the funded advocacy network and the ADE employees, their families and carers.

2(ii) The Federal Government and relevant Departments

ADE's and supported employment in general, cannot exist unless the Federal Government funds the shortfall between business viability and employee outcome – in all its phases. The greatest expense, as it is with mainstream business, is wages and employee entitlements.

The Federal Government has been as much a victim as the FWC, the service providers (NDS), and the Australian community, as the ADE workers, their families and carers in what has been classed as an "ideological war" between various "factions" of the community. This "throw-away" line disguises the reverse ableism, within the disability population that sees the lesser disabled impose THEIR view of what they think is in the best interests of the more severely disabled.

Not only has the Federal Government allowed industrial insecurity to reign supreme, with subsequent legal mayhem, they (taxpayers) have also been funding that mayhem.

We would be very alarmed if the Federal Government succumbed to the ideological zeal of the funded advocacy movement and stipulated the closure – or even the "*phasing out*" (euphemistic terminology for closure) of this business model and employment opportunity for Australia's most vulnerable workers.

In terms of managing the efficacy of their current funding, supervising the forthcoming ADE workplace structural reforms, and ceasing the discrimination against ADE workers, their families and carers, the Federal Government needs to remove the entrenched “silos’ within the bureaucracy and the elected representatives of the people – the politicians who develop policy.. They also need to stop funding the reverse ableism which is now entrenched within the National Disability Advocacy Program, and the advocacy networks who, supposedly, represent ALL people with a disability, not just the majority

We would challenge the Federal Government to identify politicians who do **NOT** understand the importance of their local electorate ADE, to **THEIR** communities, not to a professional advocacy organisation in Melbourne or Sydney.

We do not deny the efficacy of the funded advocacy groups in their broader work. Whilst we live with the mantra of “*nothing about us, without us*”, we are deliberately excluded even though, that which unites us is greater than that which divides.

From this background, we contend that the Federal Government should:-

1. Strengthen the Fair Work Commission’s mandate by re-establishing the National Disability Industry Consultative Committee
2. Ensure that what they are funding as “advocacy” is advocacy and not “activism”.
3. Align their advocacy funding to Federal Government policies. Current campaigns to close ADE’s are based on the practice of dedifferentiation or reverse ableism within the disabled population – not the able-bodied community. We don’t argue with the mission statements of the funded advocacy organisations. They are worthy goals, but the most marginalised should not be excluded to enhance the goals of the majority, and less disabled membership. By preaching “inclusion” and practising “exclusion” against the most vulnerable, our members have become victims of advocacy - not active participants. That is discrimination.
4. Provide a Peak Body for our members, so it is resourced to assist with the implementation of the new wage structure, as a party to the re-established National Disability industry Consultative Committee (Point 1).
5. Our Voice Australia as a Peak Body would provide balance and a lived perspective in policy that would be able to maximise the structural changes shaping supported employment and the broader economy. Additionally, it would highlight the possibilities and opportunities for flexibility and access to information in the new digital age. This is especially important in an era of unemployment, under-employment, post-pandemic and the lack of skilled workforce – in all national aspects of employment.

6. There needs to be a system to track and record employee transitions from supported to mainstream employment. That's those which succeed, and why, and those which fail, and why. If there is no measure of success and failure, then the policy cannot be managed.
7. Perhaps it is time for the Federal Government, along with the funded advocacy network to recognise that the move from ADE to mainstream (open) employment for most of our members is a step too far away. It might be an achievable goal for other types and other levels of disability, but there needs to be a concerted effort by all parties to consider greater effort and emphasis on a social enterprise, as an alternative stepping stone to mainstream employment. This would require research into the social enterprise model because it means different things to different people. If it is to be used as a stepping stone from education/vocational training/ supported employment and open employment then the model needs to be set up for that purpose from the start.
8. Re-badging an ADE does not make it a social enterprise. It is obvious that there is confusion within the Federal Government, the NDIS, and even the funded advocacy networks, about where social enterprises fit within the disability employment sector and the wider community. Contrary to certain assertions – they are not “open employment”. Neither is it “mainstream employment”.

It is highly questionable that an advocacy organisation/s, funded to work “collegiately and co-operatively “ with people with a disability could be meeting their funding criteria, if they refuse advocacy to the most marginalised members of their target population. Launching public campaigns against them, based solely on reverse ableism is alarming. .

As confirmed in the public legal record, there is little evidence of any of these organisations being actively involved in, or with, the ADE sector, or its employees, whom they claim to represent.

The FWC heard all the evidence over 5 years of conciliation and two weeks of arbitration. None of the evidence presented within the arbitration process was contradicted. The overseas experience, lauded by the advocates as a successful exhibition of inclusion, was also not contradicted. Mass unemployment for our ADE workers was a concern for the FWC, as evidenced in para 361 of the FWC interim decision.

[361] We do not share these views. We have paid very close attention to the evidence of Ms Powell, who described the experience in the UK after a policy decision was made to close down supported employment in favour of the disabled working in open employment. The result, as we have earlier recounted, was that the vast majority of disabled persons formerly in supported employment were left without any employment at all. That is not an outcome which we are prepared to contemplate.

2(iii) National Disability Services – the ADE employment providers

As the significant Peak for ADE's, we acknowledge they do not represent all such providers, at national level, but do represent the majority.

Just as supported employees, their families and carers have faced decades of insecurity, threats and financial detriment in the past 3 decades, the disability providers have not been immune from the changing not-for-profit environment. The onset of COVID, years of relentless legal mayhem at the hands of the advocates, and a move away from traditional gift-giving practices because of the digital age and changes to the banking sector, have left service providers struggling to meet both the viable employment and social outcomes of their mandate.

The financial “bottom-line” debate is a matter for the Federal Government, pricing, and community expectation because it is tax-payers who fund the shortfall. Most communities would do that willingly and would, perhaps, rather see some other Federal Government preferences re-directed to help more Australians, especially the most vulnerable, in the regions.

Accusations by certain sectors that service providers are only interested in protecting “their own jobs” is something which we, who have lived this journey for many years, have found to be inaccurate. We do not and cannot speak for providers and, in fact are very mindful that the boundaries between us should be well delineated. This ensures the employees are first and foremost in decision-making and are at the centre of the service.

1. We suggest that, as part of the proposed National Concept, the existing internal “worker committees” should be re-evaluated and aligned with the goals of the service. For most it will simply be a “re-jigging” of the current systems.

The internal “worker committees” require support and dedication of resources to assist them with consultation processes, technological innovation and self-advocacy capacity. Properly and sensitively handled by internal support workers and management, this is a valuable tool that will allow their active involvement in decisions about their lives, their jobs and their wishes. This is an internal process for employees and, if wider family support is required it should be on the outcome of employee committee decisions, requests and/or suggestions.

This resource already exists in many services. It needs to be formalised to ensure its legitimacy. Often peer group support from fellow workers and trusted support workers can be more helpful than top down management.

2. The “Rights @ Work” Clause places an obligation on providers to ensure those in need of advocacy and representation, can access it. Our lack of resources and the current regime of funded advocacy hostility make that impossible. The NDS needs a resourced partnership

with Our Voice Australia as a non-voting Corporate Member providing input and gaining feed-back from a National perspective. We share their view that there should be a range of employment options for their workers (our members), and that the right of Australians to work in the employment option of their choice, remains a basic Human Right under the United Nation Charter and the NDS mandate.

3. The social enterprise business and social model needs to be considered as a stepping stone by providers where the ultimate goal of mainstream employment is neither possible nor desirable for individual employees.

4. As referenced previously, the Federal Government needs to work with NDS to establish a credible, measurable and manageable recording system of success/failure with transitions to and from supported employment to alternative options,

4. Re-badging an ADE does not make it a social enterprise, despite the confusion at various levels of governance and services.

For the workers, whatever name supporters, or critics, give it, it is THEIR job. It Counts – to THEM, their families, carers, and the wider community.



2(iv) The AEDLC, PWD(A) , Inclusion Australia and associated funded advocacy network.

It is obvious that these groups and some of their affiliated advocacy organisations are not aligned, philosophically with ADE employees, with the reality of their lives, with their need for specialised support over prolonged periods, with their family carers or the fact that, to them “My Job Counts” .

The underlying problem here is reverse ableism, imposed from within the disability advocacy network of organisation– not by the able-bodied community. This is discussed in greater detail in another appendix

Whether or not, that job is “*meaningful*” employment, as interpreted by organisational professional advocates not living that type of disability, is not the issue. It is “meaningful” to the employees, to their family carers and to their local communities. That’s what an ADE is about, or should be.

As the funding body, under the proposed National Concept, it would be a matter for the Federal Government as to how this “interested party” of the disability employment sector would, or should, be represented on the proposed National Disability Industry Consultative Council Historically it was the National Council for Intellectual Disability (NCID) which was represented by the late Mr. Paul Cain. He worked jointly with Ms Kairsty Wilson representing the Disability Employment Action Centre. (DEAC). Those organisations are now **Inclusion Australia** and the **Association for Employees with a Disability Legal Centre** (AEDLC). Magically all public reference at national organisational level to intellectual disability has been removed. The needs, hopes and lives of our members, who were represented, at the request of the Fair Work Commission (then AIRC), by Australian Parent Advocacy (the fore-runner of Our voice Australia) remain the same now as they have been for the past 30 years.

The statutory industrial agency, the then AIRC and the now Fair Work Commission have always recognised the need for family carers to be involved – contra to the Federal Government and funded advocacy network.

It is from this background that we suggest the advocacy network, along with all other interested parties should:-

1. Consider stepping back from their ultimate goal of “open” mainstream employment by introducing a social enterprise as a stepping stone for workers like some of our members.).

2(v) The ACTU and subsidiary affiliated unions.

The AM2014/286 arbitration process which resulted in the FWC determination confirmed that not all Unions supported the actions of the funded advocacy network – or their agenda.

Neither did local communities.

History confirms that the Unions have an important role to play in employment issues for their members, yet it was obvious from the public record that most Unions had little or no contact with their local ADE, the employees, the providers or the family carers of employees who lacked legal capacity.

History again confirms that as Australian Parent Advocacy (our predecessor), when the BSWAT was introduced back in 2005, the sector was able to work co-operatively with the Unions and the then interested parties, to secure what was considered, a better wage system for people with intellectual disability in the supported employment regimes.

1. We have included the Union Movement in our proposed National Concept because, it should be part of the process.

We remain hopeful that they will consider the proposal on its merits, for the workers, and not just the ideological goals of their advocacy colleagues.

Our members represent a minority proportion of Australian workers who need Union representation. The lack of legal capacity and minority representation of some of these employees possibly explains the current and historical lack of representation within this section of the supported employment enterprises at national level.

Historically the funded advocacy network has filled the union's representation vacuum in that supported employment space. This could explain their collegiate support for events of the past 17 years, and their lack of physical representation on site – and in-house.

It is not a criticism, but an assumption on our part. It makes economic sense for the Union Movement to use their membership funding proportionate to their membership base. Advocacy funding is different.

2(vi) Our Voice Australia.

We have been accepted as the relevant Peak Body for ADE employees, their families and carers for the past 3 decade as Australian Parent Advocacy Inc, Carers Alliance Inc. and, since 2016, Our Voice Australia Inc.

We have never been funded, despite national reports which recommended this – as far back as 2000. The recommendation for a Peak Body, as contained in the Final Report of the National Family Carers Voice based on 4 years of research and genuine national consultation at the grass-roots level, suddenly became a “mechanism” when the Report was accepted by

- *to assist people with severe disabilities to participate equitably in community life;*
- *to increase the knowledge and understanding of people with disabilities, their families and carers about the rights of people with disabilities;*
- *to improve communication between people with disabilities and other members of the community; and*
- *to recognise, value and include families and carers, wherever possible and appropriate, in the support system for people with disabilities.*

Recommendations 10 and 11: Focus and Broad Structure of the National Disability Advocacy Program

I have considered the discussion in the report relating to these two recommendations and have decided to deal with them together. Accordingly I have decided that:

The primary focus of the program is to be individual advocacy, with a small proportion of systemic advocacy.

Remaining Recommendations and Timing of Implementation

I have accepted the remaining recommendations without change. I am concerned, however, to ensure that work on the reform of the advocacy program in line with the recommendations of the report and my decisions on them generally should proceed swiftly.

In particular, I have decided that the recommendations in relation to data and performance measurement (Recommendations 4 and 5), and the recommendation in relation to a mechanism to represent the interests of families with people with disabilities (Recommendation 14) are to be implemented by no later than 1 July 2000.

The final report is to be distributed widely within the disability community, and will be made available as soon as possible in accessible formats, including braille, audio tape and disk, large print and a Plain English version.

I commend the report to all who are involved or have an interest in the delivery of advocacy assistance for people with disabilities.

WARREN TRUSS MP

**Parliament House
Canberra**

July 1999

Parliament.

The Peak Body recommendation was retained but allocated to Families Australia as a new Peak Body for foster families. They exist to this day. We have been relegated back to the advocacy network for representation in the matter of supported employment (i.e. ADE's) and all other matters.

The alternative "*mechanism*" implemented by the Federal Government for our family carers and ADE employees was a national advisory panel to the Minister. This body comprises appointed representatives of the existing peak bodies for disability and Carers Australia. This mechanism has no readily accessible national coverage and does not enable family carers to provide input. Our organisation, over the years has always included ADE employees, but it has suited the system to ignore that and treat us, solely, as a family carer organisation. The advocacy networks then treat us the same way, and deny the existence of the disabled family members, their rights and needs.

The Carer and Disability Advisory Panel (the "*mechanism*") has been unable to help us with our legal dilemma, referring us to the funded advocacy network. The Network, in turn, has refused their advocacy for the disadvantaged employees because their choice of employment model does not fit the advocacy image, nor their ideological mission statements and objectives. The advocacy network, without consulting employees, their families and carers, has chosen to reframe "supported" employment as "segregated" employment, which they now use in their very public campaign to shut down this community business model.

Carers Australia has, for 5 years, assisted us with travel and accommodation. This allowed representation of the employees and family carers through 5 years of the conciliation process, and through the Administrative Appeals Tribunal case instigated by the network against the Human Rights Commission, NDS, the employees, their families and carers (*AAT 2016/0787- Appendix* and through 2 weeks of the FWC Hearings in 2018).

Carers Australia advised that they could no longer assist after the FWC decision was handed down in December, 2019. Carers Australia retains an interest in the outcomes, but the appropriate source for the employees was the funded advocacy networks for people with a disability. No funded advocacy organisation would represent us and further investigation confirmed the employees were not even entitled to legal aid in this matter. We were advised, by funded advocacy representatives to approach a philanthropic organisation "perhaps they could help". We had no resources, no access to legal representation and it was in the middle of a national pandemic. We just did the best we could, using our own meagre personal resources. .

Our lived experiences, over the past 3 decades show, with any objective analysis, by any “reasonable” person that the existing national system of advocacy and supported employment doesn’t work.

What we are proposing has to be better than what we have, to protect all parties and prevent continued insecurity and stress for our most vulnerable.

What is “*meaningful*” employment for these workers might not be classed as a “real job” by the advocacy network. BUT, whether it is sorting cutlery, packing, shredding or outdoor gardening it is “*meaningful*” to them, to their families, carers and the wider Australian community. And that’s what matters.



3 A NATIONAL CONCEPT

3(i) National Disability Industry Consultative Committee (NDICC)

Our proposal would put this consultative body, with its relevant stakeholders, as a protective, consultative and guiding group for the FWC and workplace change. They would be a replica of the earlier 2000 version. It would receive input from parties in the disability sector industry, especially in times of significant workplace change. Its' charter is to receive input and provide feed-back to decision-makers – i.e. Government & FWC. The nature and extent of its charter is a matter for Government, who would fund it and consult with the FWC about the role.

The new technological age of conferencing and consultation should reduce the costs of the NDICC model, especially if the interested parties are resourced to gather input from the national perspective. .

The necessity of this overarching protective and consultative mechanism should be weighed up, by the Federal Government, based on the outcome of industrial decisions about the BSWAT and its' removal by AED (Then DEAC – Disability Employment Action Centre) from the industrial agency to the Human Rights Commission

The proposed new wage structure for ADE's is far more significant than the BSWAT. Decision-makers need to answer the questions posed, from our lived experience.

Whilst the **Human Rights Commission (HRC)** has a necessary role, there should be a process (for industrial matters) which has to be exhausted at the industrial level before this can be triggered. Despite its existence, the very public discrimination against our members would require an individual to lodge a case for discrimination before the Human Rights Commission. .

We are not about to put one of our vulnerable employees or their family carers through all that, and the subsequent media frenzy.

We have to rely on fixing the broken system, from within, not publicly exposing it to the detriment of vulnerable individuals. The Federal Government is being given the option to "fix" it and learn from history..

3(ii) The Input from Interested Parties

The re-establishment of the National Disability Industry Consultative Committee could/would enable input from

(a) NDS (representing service providers), who in turn are receiving input from their revamped internal worker's committee, and Our Voice Australia as the advocate for their employees, their families and carers ,

(b) Our Voice Australia (representing ADE workers, their families and carers,

(c). the relevant **Union** .This would be determined by the Union relevant to their membership and matter.

(d) National Advocacy representation of their membership

It is assumed that this re-established national overseeing committee would be represented by the Department of Social Services. They would have carriage of the secretariat and subsequent reporting to the Government and the Fair Work Commission as the relevant statutory agency.

We would suggest that the Department and the Government might consider representation, on that committee, of a Department of Employment Services (**DES**) representative as well as the National Disability insurance Agency NDIA. The DES is underpinned by other advisory bodies within the Department and a representative on this Committee could/might assist with the changes and challenges currently being faced by DES. The interface of the DES with the wider disability sector, including the workers, their families and carers does need to be improved and the interface with the NDIA/NDIS

This concept of an overarching representative Committee is not new. Its removal back in the last wave of change, led to very expensive consequences because the industrial umpire was able to be side-lined before the recommended industrial process was exhausted.

Strengthening the ability of both **NDS** and **Our Voice Australia** to ensure worker participation through revamping the internal worker committee, would ensure employee input. This could lead to feed-back from an overall objective of the cumulative goals of such a committee to Our Voice Australia, to NDS and then to the Government.

How this evolves is a service provider issue.

A link from the worker committee and the provider could then feed through to Our Voice Australia for their wider membership.

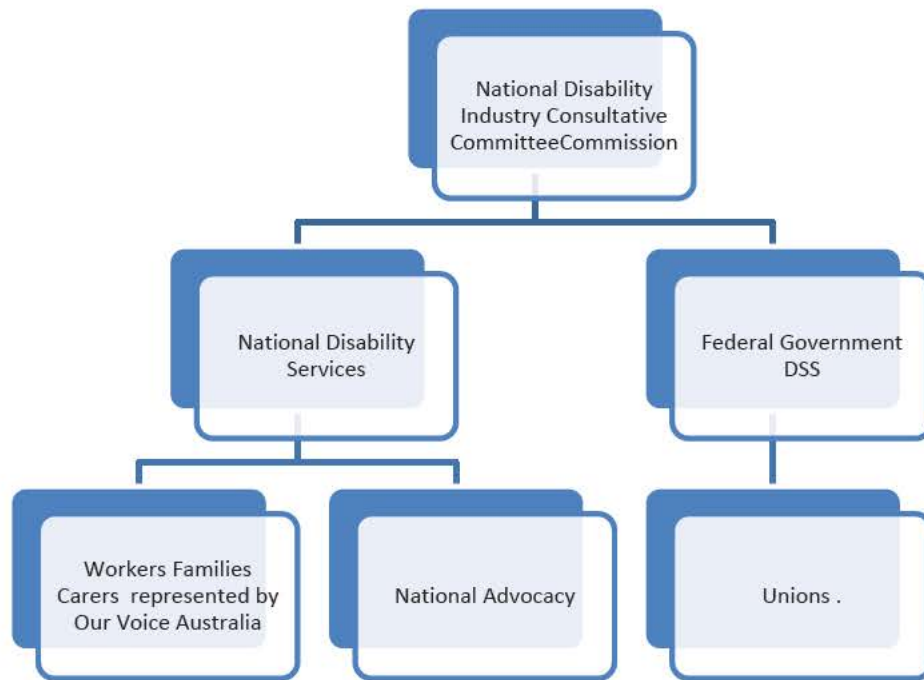
The providers have been too busy trying to save the services in the current COVID, NDIS pricing and public anti-ADE campaigning environment to visualise the benefits of the internal worker committee – post the new wage decision. But those benefits exist.

Given adequate resourcing, Our Voice Australia could establish an office in Sydney, keep a web-site that is “live”, receive input from the on-site “worker committees” , seek Corporate, non-voting membership, sponsorship , liaise with providers and the advocacy networks so that a collegiate and co-operative relationship replaces the currently fractured one.

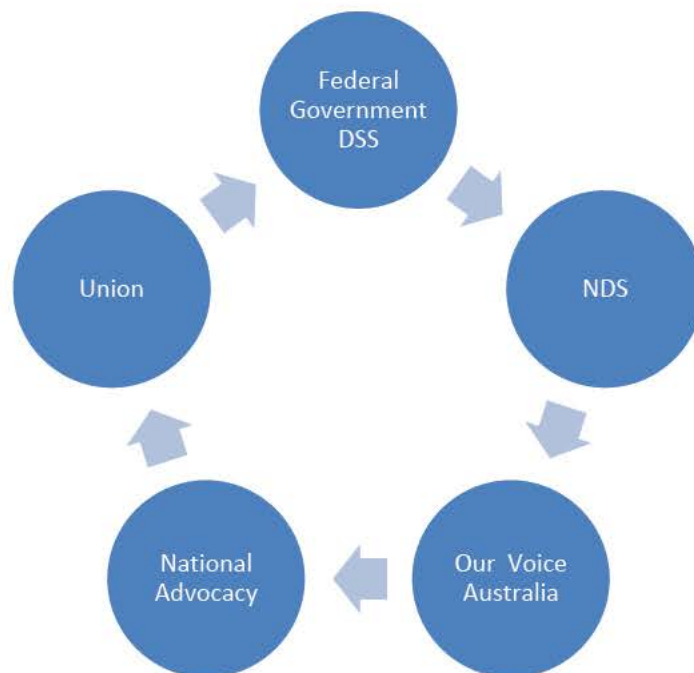
There is a legitimate voice for the ADE employees, their families and carers, but that legitimate voice needs to be formalised by Government. That would then provide the valuable input, and balance, needed in a space that is hotly contested by ideological zeal

and reverse ableism. – not the wishes of the workers, their families, carers, or the wider community. It is wasting valuable resources needed for survival, growth and capacity to meet the challenges of the future.

This depicts the ultimate outcome – with the Fair Work Commission – sitting above the proposed NDICC



. With adequate resourcing the Federal Government would be receiving input and providing feedback from the other stakeholders – who



should/would all be interacting and representing their constituents and current issues – as they occur.

The Human Rights Commission, Carers Australia and the United Nations Convention all sit outside the new Disability Concept – but are integral to it. They, in fact, are silos, whereas the proposed concept aims to break down the existing silos within the stakeholder groups feeding into the NDICC, and ultimately the Fair Work Commission



Carers Australia have a good working relationship with both Our Voice Australia, and National Disability Services . Without their assistance over those 5 years, the employees, their families and carers would have been totally locked out of the ADE wage issue. Those partnerships are valuable – and valued. They will be an integral part of the internal Our Voice Australia processes for input and feed-back.

Appendix 4



Ableism is defined as prejudice and discrimination against people with disabilities. It centres on the notion that people with disability are imperfect and need “fixing”. This leads to able bodied people interpreting and imposing THEIR vision of what is needed by these disabled people in policy, services and society. This delivers policies which demand their “inclusion” in society – but at the level the **ABLE-Bodied** society believes is in the best interests of the **DIS-abled** person, not necessarily their personal choice.

Increasingly this is being seen as a **WOKE** – an alert to racial prejudice, social injustice and discrimination

Because of these “*ableist*” theories the visual images of disability are of wheelchairs, walking sticks, white canes, sign language, seeing- eye dogs and other mobility and sensory aids. Intellectual disability is not a disability which can be typified visually – or in the media. Consequently these people with intellectual disability (of which down syndrome has become the usual visual image) have, over time, been excluded from input. The reality is that the greater the level of intellectual disability – the greater the level of exclusion. The level of “inclusion” deemed necessary to address the “exclusion” of this vulnerable group from the broader community has been determined, initially, by the “ableist” policy makers with input from other sections of the disability cohort.

Advocacy is critical for this group within the disability cohort, as it is for all types of disability both within that cohort and then into the “ableist” community that constitutes modern society, as we know it.

Family advocacy – the most practical and experienced form of advocacy for this group of disabled persons within the wider disability cohort, is deemed, by the disabled community,

to have a conflict of interests because the disabled person has to be the centrepiece of the advocacy, and the family are deemed to have conflicts of interest . Funded advocacy networks contend the broader family obligations are foremost in family considerations, and not the individual disabled person with intellectual disability. Additionally the family is not disabled and policy for disabled persons should be developed by disabled persons themselves – and not the “ableist” community. Family advocacy for this most marginalised disabled group, within the disability cohort, and then into the wider “able-bodied” society is deemed to be no more than “*informal support*”. It is not formally recognised by Government policy, and is not funded to include the voice of this group within the disability community- or the wider able-bodied society of which we are all part.

This explains the “ableism” and “ableist” theory which has generated the “WOKE” – of which the current campaigning by the funded advocacy network, being endorsed by the AEDLC Camp, is the public (government funded) face.

This is evidenced within the ADE sector as an example of “**Reverse ableism**”. That’s when the “best interests” (needs) of the most marginalised group within the disability cohort are determined by the less disabled groups within that disability cohort. Having determined what the most marginalised disability cohort need, their disabled peers then translate those perceived needs without input from family advocacy into policy. That policy of “full inclusion”, open employment and mainstreaming is then espoused, and injected, by professional, advocates employed by taxpayer funded advocacy networks, into the “ableist” society, of which we are all part. It is further strengthened by Government, which provides the funding to enable all this supposedly representative goal setting and objective consultation to occur. Government then accepts the outcome provided by the supposedly representative agencies. That outcome then becomes policy which governs funding, as well as future services .

Where all these good intentions deliver detrimental outcomes is that the majority of the disability community have self-advocacy skills and the outcomes for which they advocate are positive and necessary ones, for the majority of that community. Promotion of inclusion policy and practice – as developed by people with a disability for people with a disability has a credibility that is accepted within the disabled community, within the “ableist” community, by Governments and has been translated and accepted into non-discriminatory formal policy.

The current FWC proceedings and Disability Royal Commission have shone the spotlight on “*reverse ableism*” operating within the disabled community. Obvious to those living with the detrimental outcome is the reality that the less disabled cohort have decided what is in the best interests of their more severely disabled peers with intellectual disability. But mild/moderate intellectual disability should never be the proxy for moderate to profound intellectual disability, in research by Bigby & Clegg **Research & Practice in Intellectual & Developmental Disabilities 4.1.80-97.DOI:10.1080/23297018.2017.1309987.**

Our colloquial term of “reverse ableism” is clinically defined as *de-differentiation* by Bigby while Professor Cummins paper on “Community Integration or Community Exposure” refer- Journal of Applied Research in Intellectual Disabilities 2003,16,145-157 raises the question about social integration v physical integration”. Whilst this research is now some years old, the clinical opinion remains valid, and the FWC proceedings are the physical face of this fact.

The theories (needs) of the less disabled within the disability population are being imposed, by them, on their more severely disabled peers – not by the able bodied population. The latter accept the outcome is the result of consultation and agreement with all sectors of the disabled cohort they have funded, and whom they purport to represent. However, the more severely disabled cohort (our members) have, at all times, been excluded from the woke around ableism, now publicly and actively on display with their demands that the ADE’s be closed. Furthermore neither the AED Legal Centre nor the Unions have, at any time, provided their physical presence to the ADE services, their employees or family advocates to discuss the wishes and opinions of that disability cohort. The advocacy networks already know that the preference of the majority of ADE employees is to remain employed in the employment model of their choice but, this choice is at odds with the preferences of their less disabled peers. As the ADE employees do not strengthen the case for the less disabled minority of the disabled population for full inclusion, it is deemed better to exclude them all together. That’s what happening, on the ground, as the current case proceeds.

This is not true ableism because campaigning for closure of the ADE’s is not being imposed by the able bodied community who support their local ADE. Rather, it is being imposed by the majority of the disability cohort on the more severely disabled, marginalised minority - within the disability population, because it does not align with the needs of the majority.

Consequently the minority have been excluded and are being sacrificed to ensure the strength of the majority campaigning is not diluted by the needs of the more severely cognitively impaired. In a climate of social change the most marginalised are being, deliberately, “left behind” to enhance the ultimate outcome of the majority- not weaken it.

This is not advocacy. This is activism.

This is not ableism. This is reverse ableism

This is not inclusion. This is exclusion.

This is dedifferentiation.

This is discrimination disguised as inclusion

This display of reverse ableism has been exhibited in the ADE sector for years, but never so much as in the 2018 Interim determination, upon which the current FWC proceedings are based. Paras 359, 360 and 361 of that decision refer to the calamitous outcome that significant wage increases would have on society and on the employees.

[359] We consider, having regard to our earlier findings concerning the social value of supported employment in ADE's, that the loss of employment which would occur consequent upon the mandatory use of the SWS would be a calamitous outcome. Numerous disabled persons and their carers have given uncontradicted evidence that the loss of supported employment would result in social isolation, boredom, financial detriment, a loss of skills development opportunities and a diminished sense of self-worth amongst disabled persons, with a significantly greater burden being placed on their carers and other family members. There is no evidence that this would be ameliorated by any compensating increase in open employment for disabled persons.

Excerpt [2019] FWCFB 8179 -wage case

[360] It must be said that some of those in the AEDLC's camp did not appear to fully share our level of concern about the future of the ADE sector should it have a very significant wage adjustment forced upon it. Mr Cain accepted that the ADE sector had a role to play, but he perceived this as being only to act as a transitional pathway for disabled persons to be placed in open employment. Mr MacFarlane opposed the ADE model outright, which he regarded as "segregated employment". His views aligned with those of PWDA, which publicly advocates for a plan to close all ADEs and transition all ADE workers into open employment or, in the case of older workers, progressive retirement.

[361] We do not share these views. We have paid very close attention to the evidence of Ms Powell, who described the experience in the UK after a policy decision was made to close down supported employment in favour of the disabled working in open employment. The result, as we have earlier recounted, was that the vast majority of disabled persons formerly in supported employment were left without any employment at all. That is not an outcome which we are prepared to contemplate.

The charter of the Fair Work Commission is to deliberate and decide wage issues. Social policy is not their realm. That is the role of Government. Social policy and wage outcomes, however, are not mutually exclusive. They are co-dependent. One does not trump the other. Rather they are competing interests which must be balanced. As previously referenced the duality of focus is the core concept of ADE's (Refer Para 33 of the Nojin decision- *Nojin v Commonwealth & Another [2012]FCAFC 192*).

Therefore it was reasonable, based on the evidence in *FWC[2019]FWCFB 8179* that the social outcomes of arbitration to determine a new wage structure could not discount the social impacts. Furthermore it was also reasonable, based on the evidence provided by the AED Legal Centre, the Unions, ADE employers, employees and their family advocates, as well as the funded advocacy networks, that the tensions and preferences of all parties were manifested in debate, and counter-debate throughout the 2 week arbitration and the decision it subsequently delivered. That decision is now the subject of the current proceeding more than 4 years later.

Emanating from the closing statement of this Wage Case was different terminology describing the reverse ableism referred to in this document

PN639

The SWS has produced significant negative impacts on operations and their viability when it has been adopted.

PN640

In my submission that's not consistent with the evidence of the adoption by the SWS. It's true to say that many of those who have utilised the SWS apart from Mambourin have reported an increase in their costs, but they were unable to be very specific about the extent to which their costs rose. There was restructuring that occurred: so what? So what? The business had to adapt to a new circumstance, and that's what it did. That's not a reason not to adopt the SWS, that's just a response to the fact that a new model of wages was adopted and they had to adapt to that circumstance. Finding 5:

PN641

The award should contain a classification structure specifically designed to describe the work performed by employees.

Closing statement - Mr. Harding (AED)

PN642



I think we've covered that territory and I don't need to say any more about that. Submissions have been made by Ms Walsh and Mr Christodoulou pertaining to the motivations of the AED and also other disability rights organisations. With respect, those views are irrelevant to the issues that this Commission has to consider.

PN643

Whatever may be going on in the argy bargy outside this Commission, the AED's position is the one that has been articulated here. And there is no reason why the Commission ought to adopt or discount that position by reference to externally-generated viewpoints, whatever the accuracy of those might be. They're the submissions in reply from the AED.



PN644

VICE PRESIDENT HATCHER: Thank you. We thank the parties and their advocates for their very detailed submissions. Once we have received the answers to our questions from the Department and any further material contemplated, we will reserve our decision. We're now adjourned.

ADJOURNED INDEFINITELY

[4.45 PM]

LIST OF WITNESSES, EXHIBITS AND MFIs

EXHIBIT #183 WITNESS STATEMENT OF SCOTT REED..... PN380

THIS WAS THE CLOSING STATEMENT BY THE BARRISTER FOR AED. EVIDENCE PROVIDED BY OUR VOICE AUSTRALIA, (& others) ABOUT THE PUBLIC CAMPAIGNING OF AED AND OTHERS SUGGESTED A STRONG BREACH OF HUMAN RIGHTS AGAINST THE WORKERS BECAUSE THE ONLY REPRESENTATION THEY HAD WAS US - AND WE HAD TO USE OUR OWN FUNDS. AED wanted all this removed from the deliberations by the FWC and used their closing statement to say that the "argy-bargy" out in the community, "even if accurate" should not be considered by the FWC. This was later used by us in evidence with the Federal Court Case launched by AED appealing the final decision in this FWC case (FWC [2019]FWCFB 8179 -Sydney 3/12/2019.

"Argy-Bargy"



The closing statement was delivered by the barrister representing the AED Legal Centre in this Wage Case. In it he described the reverse ableism principle underpinning some of the evidence from workers, their family advocates and employer parties as "argy bargy".

The relevant excerpt of that transcript is provided, along with our use of and explanation for its use in the Federal Court Case which was the Appeal by the AED Legal Centre against the decision notice issued in Sydney on 3 December, 2019.

Fifth respondent's submissions **Excerpt - Para 110 - page 35 (Association for Employees with a Disability v Commonwealth of Australia [2021]FCAFC 36.**

110 Our Voice Australia agreed with and adopted the written submissions of the second, third and fourth respondents, and made some additional submissions based on the experiences of its members with family members employed in the ADE sector. In her oral address to the Court, Ms Walsh emphasised that the Commission's process had once been described by lawyers involved as "argy bargy". She emphasized to the Court that this "argy bargy" was about the lives of those parents, family members and carers who make up ^{our} One Voice, and about the "lived examples" of the debate about what wage structure should be implemented for employees with a disability who work in ADEs. Her observations have, with respect, force, and they underline why the Commission, in the circumstances, must be permitted to complete its statutory task.

Now as the Wage Case proceeds to what we hope will be a final determination satisfying all parties and one which will provide a time line, with independent oversight, to protect the rights of the employees and the expectations of society, we will continue to advocate, at our own cost, for the employees. They want our communities, to "Hear Us – See Us" as they tell us that "My Job Counts". This is the human face of the proceedings now happening



Hear Us – See Us







STATEMENT

Fair Work Act 2009
s.160—Variation of modern award

United Voice; Health Services Union
(AM2013/30)

DEPUTY PRESIDENT BOOTH

SYDNEY, 15 OCTOBER 2015

Progress in conciliation.

[1] In December 2013 United Voice and the Health Services Union made an application to the Fair Work Commission to vary the Supported Employment Services Award in relation to the setting of wages for employees in supported employment. These employees are employed in Australian Disability Enterprises.

[2] In June 2014 a Full Bench of Commission referred the application to conciliation before me.

[3] The parties represented in the conciliation include the unions, the ACTU, National Disability Services (NDS), Australian Business Limited (ABL), disability advocacy representatives, Australian Disability Enterprises (ADEs) and representatives of parents and carers.

[4] These parties have attended conciliation, with the Department of Social Services observing, throughout 2014 and 2015.

[5] During conciliation and between sessions the parties have exchanged views and undertaken intensive research in an effort to reach agreement on matters before the Commission.

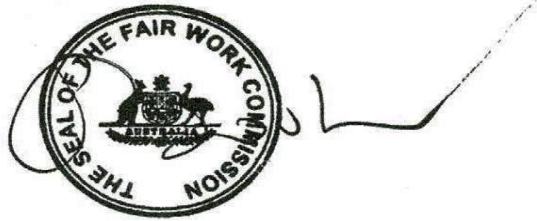
[6] The parties agree that their shared objectives are:

- a) A fair, equitable and non-discriminatory wage outcome to contribute to a living income for employees in supported employment;
- b) Continued opportunity for employment in supported employment settings to build and maintain the self-esteem and sense of purpose of employees;
- c) Sustainable employment opportunities in viable ADEs; and
- d) To provide security and confidence to employees, parents and carers for the future.

[2015] FWC 7134

[7] The parties are developing options, including modelling, to endeavour to meet these objectives.

[8] Conciliation will continue.



DEPUTY PRESIDENT

Our Voice Australia comment 6/2022
As the only national family advocacy group we attended conciliation and mediation meeting convened by the Fair Work Commission - at their office in Sydney until 2018, when the Unions and AED commenced arbitration
The arbitration was to embed the SWS(Supported Wage System) into the Award as the only wage tool. The result of that case FWC[2019]FWCFB - was handed down in Sydney on 3 December, 2019. The SWS and all existing tools were ruled inappropriate for Modern Awards and a Trial of a new system was deemed necessary. That resulted in the Federal Court appeal by AED in Feb 2021

Printed by authority of the Commonwealth Government Printer

<Price code A, PR572987>

Our Voice Australia



OUR VOICE AUSTRALIA - AM2014/286

NATIONAL CONCEPT DISCUSSION PAPER

This Concept has been shaped by history because we have been here before – **TWICE**

- (1) The Business Services Wage Assessment Tool (BSWAT) – in 2004
- (2) Modification of the Supported Wage System (SWS) in 2016.

This is the third time. We cannot afford to get it wrong - **AGAIN**.

The questions then, are the same as now:

How can we improve the wage outcomes for the employees without causing mass unemployment if the services are forced to close because of unsustainable wage increases?

Then, as now, the majority of those employees are people with intellectual disability. As such they are a minority in the disability workforce cohort and require higher levels of support, for longer.

Then, as now, the workers claim “*My Job Counts*”, and it does - to them, to their communities and to their families and carers.

This business focussed community service model began as “*sheltered workshops*”. We have not had those since the late 90’s, although it suits some to continue to refer to them as such.

If we are to avoid repeating the mistakes of the past, we must, collectively, know what those mistakes were. To do this we must all accept that the SWS wasn’t designed for supported employment. It was designed for open (mainstream) business application.

Our task is to reshape the SWS (modify it) to meet the demands of a Modern Award Wage System. That means we have to force a square peg into a round hole, and do as little damage as possible to as few people

as possible, as we reshape it.



It is the family carers, support workers and in some case providers who have to pick up those “shavings” and put them back together again, when employees do not succeed in moving into open, mainstream employment. As our un-contradicted witness statements during arbitration in 2018 confirmed – mainstream “open” employment does not suit all people with a

disability. Some of our witness statements confirmed that an unsuccessful experience had actually created health and emotional detriment for some employees. That was my own personal experience for our son, so I'm aware of that possible detriment.

Recent Hearings of the Disability Royal Commission confirm that there are barriers – and many of them – for people with a disability gaining access to open employment. With respect, our members would be among those most vulnerable, because of their type and level of disability. In accepting we cannot, easily, change those existing commercial and community barriers to open employment, we examine the mistakes of the past.

History of the BSWAT (2004- 2018)

In reviewing this history we have the benefit of both Ms Wilson (AED Legal Centre) and myself, as active parties to the introduction of the Business Services Wage Assessment Tool (BSWAT). The history of how it evolved, its industrial journeys, its journey to the Human Rights Commission, the resultant Federal and High Court legal actions which led to the Nojin principle, the \$105m+ compensation pay-out and its' subsequent demise are pit-stops we need to make. We then need to detour to the Administrative Appeals Tribunal case [*AAT 2016/0797*] launched by People with a Disability Australia (*AAT 2016/0787*) and supported by AEDLC and the Union Movement.

We provide excerpts of the formal transcripts to ensure that decision-makers for this new journey to introduce a totally new hybrid wage system are aware of the history that has led us to where we are to-day. Only by knowing the history can we ensure we all learn from, and not repeat, past mistakes. With no resources other than membership subscriptions back in 2004 and less in 2022, we cannot provide internet links to the historical transcripts. We do, however, encourage all parties to access them in full to ensure that the history we provide covers all the relevant facts.

Messrs Nojin and Faggotter (although sometimes referred to as Bageter in the transcript, we have accepted Faggotter.) were two employees being represented by the Disability Employment Action Centre (DEAC – now AEDLC). They sought to be assessed, at their business service (ADE) by the Supported Wage System (SWS), and not any of the industrially approved wage assessment tools then available to service providers.

The AIRC case *C2004/4167* sought to have the BSWAT added to the existing range of approved wage assessment tools. At the suggestion of the AIRC and as the President of Australian Parent Advocacy (APA), I was representing the employees, families and carers of the then business services as the Federal Government (DSS), ACROD (Now NDS) and the Unions applied for formal industrial approval of the BSWAT in the relevant Award.


APA was funded by membership fees as the Federal Government refused to fund us. Then, as now, they stated the National Council on Intellectual Disability (NCID- now Inclusion Australia), represented employees with an intellectual disability. They didn't then (just as they don't now) because they and AEDLC had lodged formal objections to the BSWAT application before the AIRC.

We provide the facts of the legal industrial journey so that decision-makers can make informed decisions based on history, not selective slogans, mantras and high profile public campaigning. We cannot rewrite history. But, we can and should learn from it, so the facts are provided objectively.


Case No C2004/6123 (see excerpt) was on foot and alive before the BSWAT was industrially approved in June, 2005. Ms Wilson (DEAC – now AEDLC) was representing the two employees. Their application was for the use of the Supported Wage System (SWS) in the service used by the two employees.

The introduction of the BSWAT was being overseen by the Disability Sector National Consultative Council (ICC) which had been used successfully to narrow points of difference between all parties. The Council was approved by all parties and it was agreed that, during the actual arbitration phase it would be adjourned indefinitely. It was later agreed that it would continue, after the implementation as a review and “as of needs” mechanism

Excerpt of transcript AIRC LHMU & Ors - Matters C2004/4617 - /5981/6012 - 7-10-2004.

PN155 **representing LHMU** MS BENNETT: We're not opposed to the ICC being adjourned indefinitely although it might be that if some parties do not have representation during the process. For example where the parties for conciliation might be a little bit more limited than the ICC and it might be convenient at a later time to convene the ICC as a form of information giving but that might be something that during the course of the proceedings we'll be ascertain then. 


Following the adoption of the BSWAT into the Award (June 2005) - the ICC was to be used as a review mechanism 12 months after implementation.

 THE VICE PRESIDENT: Thank you, Ms Bennett. I must say one of the obvious features of today is the absence of any representation or application to intervene by any parents group. That may be simply a function of oversight or lack of communication.

PN156 **Aust Business Industrial & Vic Chamber Commerce & Industry**

MR CAPELIN: Your Honour, I may be able to help. Our office has had discussions with Ms Mary Walsh from the Parents' Association. She was intending to write to the Commission to indicate her intention to seek to intervene was not able to be here today. My understanding from what you said, that correspondence obviously hasn't arrived, but that is what she indicated to our office.

PN157

 THE VICE PRESIDENT: Well, since I have been trying to get everyone's position on applications for leave to appear and leave to intervene, is there any objection from any of the parties to leave being given to the parents' group that Ms Walsh represents being given leave to intervene in matter number 4617, and matter number 6123 to the extent that it ends up being joined, or at least linked to 4617? **matter no C6123 was Nojin/Faggotter being represented by DEAC/NCID.**

PN158

I note for the purposes of the transcript that there is no objection raised by any of the parties present today, or the representatives today.

PN159

It is a matter of public record, in the next transcript excerpt, that the ACTU, on behalf of the Union Movement accepted and confirmed the value of the ICC as the overarching and representative mechanism. We, on behalf of the employees, their families and carers also recognised its value as an independent

monitoring body which, we stated, should stay in place on an “as needs” basis until May, 2008 to deal with



65 per cent of the employees with intellectual disabilities still live at home with family carers many of whom are now aging and the Federal government has never accepted family carers as being stakeholders. Historically the Federal government has used both economic and ideological arguments to rationalise sheltered workshops in the past 15 years. Nothing has changed and this rationalisation we as family carers believe it's cost shifting capacity will continue into the future. We request that the industrial consultative council be continued as a monitoring identity and include all existing parties to provide an independent monitoring process which could meet bi-annually or as needs until May 2008.

PN146

Continuation of the ICC will provide a mechanism for family carer involvement. Nothing currently exists. We feel it is reasonable for the Federal government to fund the costs of family care involvement in this or any other suggested monitoring structure. It is family carers who will bear the brunt of reduced services as they are already. We do not make policy, we do not work invisibly, we live it, and the workshop for our disabled family members if not just a job, it's their life. Australian Parent Advocacy has sought to introduce the social human factor into what is a very complex industrial issue and we accept that it must be determined under industrial law.

PN147

But we also feel strongly that the public benefit test goes to the heart of the viability of the services which are and could be threatened unless we resolve this in a reasonable, amicable and practical way and I would like to record our thanks to all parties involved because I believe that we have achieved much in the last two months.

PN148

THE COMMISSIONER: Yes, thanks, Ms Walsh. Now, Ms Gaynor?

PN149

MS GAYNOR: If the Commission pleases. Commissioner, the ACTU is mindful that in earlier proceedings Vice President Lawler requested part of the common interest seek to combine their submissions. As such the ACTU as an intervenor in this matter advises to support the submissions of the LHMU. Before doing so, the ACTU wishes to place on record our appreciation for the role of the Commission in matters. We think it's correct to say that the parties were well apart in their views prior to the establishment of the Disability Sector National Consultative Council and we believe the establishment of the ICC by the Commission provided a very important forum for the parties to hear each other's positions on matters including those that are subject to today's application.



file:///D:/User Profile/Desktop/AIRC LHMU BSWAT decision 27605.htm

18/33


expected “teething problems”, in the implementation phase of the BSWAT.

Additional excerpts, as provided hereunder confirm that:-

1. The SWS was developed for open employment – not supported employment
2. The failure of the SWS to provide a sound basis for development of wage rates in the sector was because of the dual focus of the ADE’s (then business services) and
3. Ms Wilson (AEDLC) and the late Mr. Cain (NCID – now Inclusion Australia) expressed two reasons for their formal objection to the approval of the BSWAT. They were

- (i) Approval of the BSWAT would mean that providers would by-pass the other tools and, therefore by pass the supported wage system and go to the BSWAT. Application No. 6123 was for the supported wage only (SWS) – not for a range of tools, and
- (ii) They considered the BSWAT was not a valid tool and required amendments.

PN188

 If I could say a few words regarding the Supported Wage System, Commissioner. The Supported Wage System was developed for application in open employment. It wasn't developed with any regard to the unique needs of business services and wasn't at any time intended to be advised generally to the sector, and I think that ought to be fairly uncontroversial, Commissioner. Generally speaking, and this isn't true in every instance, but generally speaking the Supported Wage System isn't well suited to the needs of the sector because it works in a one dimensional way. It assesses productivity only and produces outcomes that we think are justified.

PN189

There is the potential, if the Supported Wage System were to be applied generally to - - -

PN190

THE COMMISSIONER: That certainly wasn't the view of the Minister, or that wasn't a view contended for at the time the Full Bench sat on other occasions since the first Full Bench.

PN191

MR MACKEN: I think the Supported Wage System, Commissioner, and the Supported Wage System test case made clear that the Supported Wage System wasn't intended to operate in business services, Commissioner. Any serious doubt about that - - -


PN192

THE COMMISSIONER: I understand. If your comment is directed in a comparative sense, then I understand. I thought you really put a submission of general application.

PN193

file:///D:/User Profile/Desktop/AIRC LHMU BSWAT decision 27605.htm 23/33

PN196

 As I understand it there are a total of some 20 services that use the Supported Wage System and it covers 395 employees in business services out of a total workforce of some 17,0000. So what we say is the reason the SWS has been unable to provide a sound basis for development of wage rates in the sector is really attributable to the dual focus of business services. Perhaps it would assist in this regard, Commissioner, if I tender as an exhibit a document entitled, A Viable Future: Strategic Imperatives for Business Services, because I'll just be referring to a passage.

PN197

If I could just ask that that be marked as an exhibit, Commissioner, and if I could just say by way of background that in 2001, KPMG Consulting was commissioned by FACS and by ACROD to investigate the general circumstances of the business services sector to identify long standing issues of concern to the seeker and its stakeholders and to provide a framework for addressing those. This report is the product of that review, Commissioner.

PN198

THE COMMISSIONER: Yes, so this was from 2000, was it?

PN199

MR MACKEN: 2001.

**EXHIBIT #MACKEN1 DOCUMENT - A VIABLE FUTURE:
STRATEGIC IMPERATIVES FOR BUSINESS SERVICES**

PN200

MR MACKEN: The most relevant passages in the document, and I won't take you to all of them, Commissioner, but they're in section 4.2 and they're at pages 18 to 24, but just briefly summarising what we think are the key points emerging from that review. The review noted that

file:///D:/User Profile/Desktop/AIRC LHMU BSWAT decision 27605.htm 24/33

MS WILSON: The supported wage tool in the variation, the proposed variation, is listed under 15.4.9. What we would say is that certainly the whole of the clause which is the recognised clause, should be - it shouldn't just be a reference to the Full Bench decision. The full clause as it stands should be in it. We do have concerns with another matter, another application is alive which we are the agents for the two employees involved. That's C2004/6123 and therefore whilst that's still alive, we have concerns that, you know, any variation be made in terms of that matter being determined.

PN179

The NOJIN/BAGETER application was on foot and alive in 2004

THE COMMISSIONER: But this application does things additional to what I'd like to highlight, and that is, it grants the application in 6123, doesn't it, Ms Wilson?

PN180

MS WILSON: Well, the application under 6123 is for the supported wage only. It's not for a range of tools and it's basically the concern with the variation is that because the BSWAT is funded for the assessment by the Department, any other tool, unless they're already being used by the business service themselves, will bypass the other tools and therefore bypass the supported wage and go to BSWAT. We don't consider that BSWAT is a valid tool and therefore our objection is the fact that it's been until it has been viewed and amendments made to make it a valid tool. **Excerpt from transcript 1-02-2005 C2004/4617 -pg 22 of 33**

C2004/6123 – the name Bageter in some transcripts is Faggotter in others. We accept the latter

Whilst encouraging all parties to refer to the full copies of the transcripts with the introduction of the BSWAT, we acknowledge the concerns expressed by Ms Wilson in 3(ii) above.

Ms Wilson's concerns were noted and discussed by us all as a group during a recess. We shared her concern about the competency test, but were assured that the BSWAT guidelines had internal grievance mechanisms to deal with variations in wage outcomes which might cause complaints. We checked – and they did. Should the internal mechanisms not resolve complaints, the workers then had recourse to the AIRC with the lodgement of the standard Application to Vary, with which Ms Wilson was familiar.

The introduction of the BSWAT led to Ms Wilson's case C2004/6123 3(i) above being discontinued. As the representative of APA, I had already been accepted, by the Bench, as a party to that matter "*should it end up being joined or at least linked to C4617- the BSWAT application.*"

The following excerpt confirms that "*there are safeguards in the application which deal with those issues*" – being principally any variations in wage outcomes that needed to be resolved in the interests of aggrieved employees. The Bench did acknowledge the importance of the points raised by Ms Wilson, (***the all or nothing***" competency assessment), but we were all confident "*They've been sought to be taken up by all parties today*" that Ms Wilson would continue to protect the interests of Messrs Nojin & Faggotter "*in the application*" of the BSWAT with her two clients.

PN258

The President has indicated that the application can be considered by the Commission as constituted and I am prepared in the light of evidence that has been put today, and I don't propose to go through the arguments and I don't propose to set out the support for example of the ACTU and the support of the Commonwealth and the opposing view put by Ms Wilson for DEAC indicating the need for caution in some important respects. There are safeguards in the application which deal with those issues.

PN259



Ms Wilson does bring to notice issues, some of which are quite important, in the event that there is some difficulty in application. I think they've been sought to be taken up by the parties today and it's for all these reasons that I will vary the award in the terms of what will be an amended draft order when it's received. I will ask you, Ms Bennett, to send a copy off of the amended draft order to all the parties and then send a copy to the Commission and I will wait.



file:///D:/User Profile/Desktop/LHMU- BSWAT - June 2005.html

32/33

To the best of our knowledge and the public record Application No C2004/6123 was discontinued. Only when the matter went to the Human Rights Commission 4 years later were we made aware that the PN259 resolution to the concerns raised “by the parties” might not have happened, or, if it did, then the safeguards upon which we all relied, and that included the Bench, had not been effective.

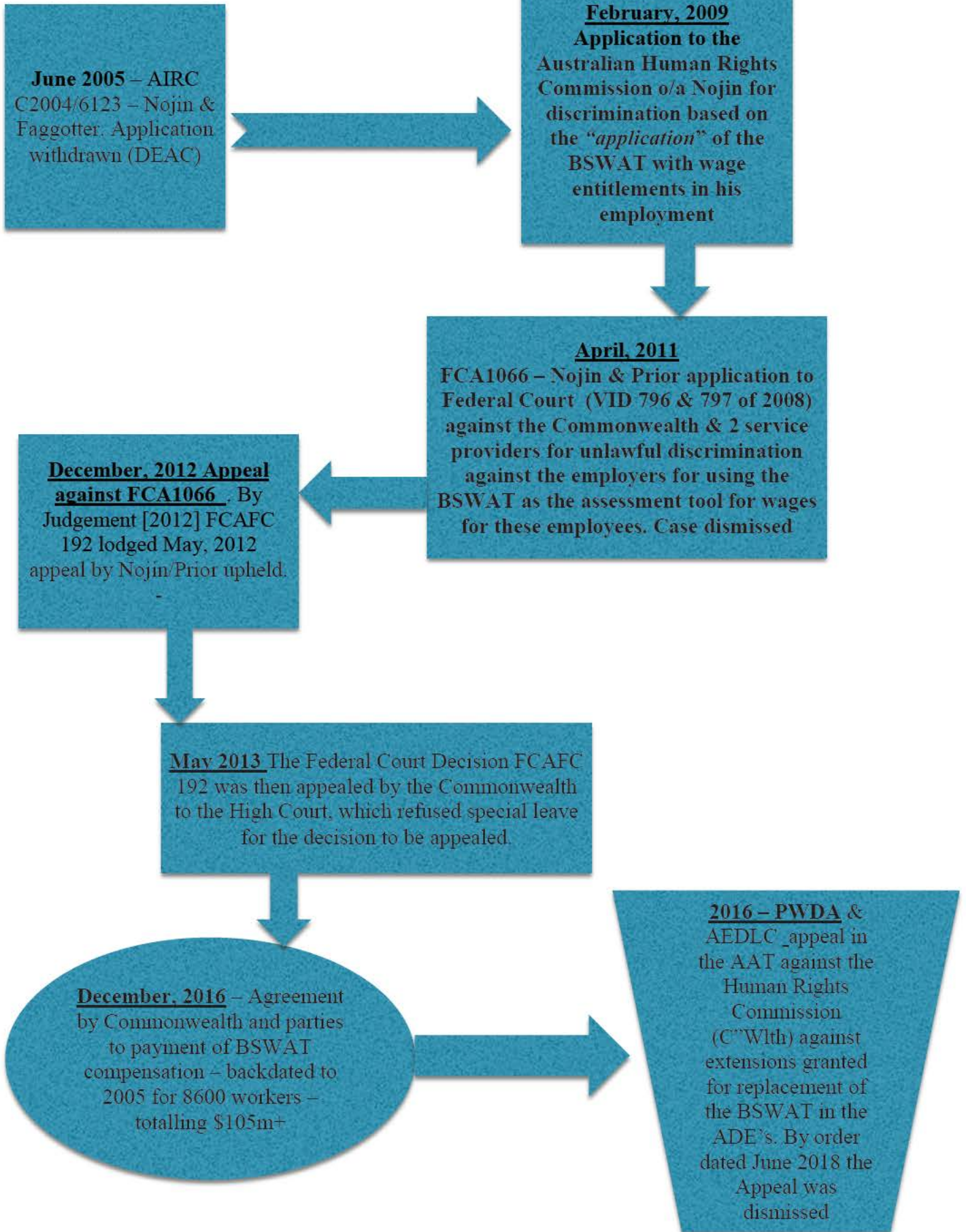
We assumed that Messrs Nojin and Faggotter continued in their employment and that, if they had grievances with the *application* of the BSWAT, then they were resolved through the standard industrial processes.

We attach our time-line of the legal mayhem resulting from the failure to address, within the industrial process, the known concerns enunciated in transcripts surrounding the introduction of the BSWAT back in 2004/2005.

The resultant time line of that failure should serve as a warning to ensure that:-

- (1) The new wage restructure is overseen by an independent representative Council through the transition and implementation phases. This should protect the industrial processes, which is where the first error of the past occurred.
- (2) Workers, their families and carers (their legitimate advocates) should have access to the same legal representation in industrial disputes as all workers.
- (3) We can find no evidence of an application to vary for the expressed BSWAT competency test concerns on behalf of Messrs Nojin & Faggotter – post June, 2005. If we assume that AEDLC did make such an application, then where did the grievance system let us all down?
- (4) If no application to vary was made, as agreed – why not? We cannot re-write history, but a successful, standard, amendment through the industrial process in 2006 would have saved a lot of angst and money. It would have delivered wage justice for all.
- (5) The history of the subsequent compensation payment indicates that extreme caution should be exercised with the dates and time frames for the new wage structure. This was further emphasised by the later appeal, lodged in 2016 by People with a Disability Australia (PWDA) and AED Legal, to the Administrative Appeals Tribunal. That appeal was dismissed but it sought to establish legacy claims for other workers who did not meet the principles established by the Nojin principle established in the High Court decision of 2013. All claims were backdated to the implementation of the BSWAT in 2005.

LEGAL ACTION TIME-LINE.



The legal history of the BSWAT would be incomplete without examining some of the evidence in the 2016 Administrative Appeals Case against the Human Rights Commission and the Commonwealth by PWDA and AEDLC .

The AAT cases [AAT 2016/0187 & 2016/1854] were launched by PWDA, supported by AEDLC in 2016 against the Human Rights Commission. The case against the respondents was for their extension of time, under the supervision of the FWC, to allow an orderly transition of the 8500 employees then being assessed by the BSWAT, away from that assessment tool to the SWS or alternative industrially approved tool.

Para 118 is the Court Decision comment on claims by the applicant parties that the Human Rights Commission gave inadequate weighting to the submissions made by the ADE employees, themselves, compared to those made by family and carers on behalf of their intellectually disabled family members.

The AHRC failed to ascertain and consider the scope and impact of the discrimination on the basis of disability in employment to which ADE employees whose wages have been determined using the BSWAT were subject

116 In support of the above submission, the applicant and AED contended that the AHRC failed to pay proper attention to the financial vulnerability of the supported employees whose wages were assessed under the BSWAT, and failed to act in accordance with s 10A(1) of the AHRC Act. They said that “the voices of employees themselves, as opposed to family members, were not heard in submissions put to the AHRC”. They drew attention to the fact that all the submissions from people with disability, bar one, opposed the grant of an exemption. They submitted that the defects could not be cured by proceedings in the Tribunal but required “proper public consultation”.

117 We do not accept that there was a defect of the kind alleged that infected these proceedings. As will be seen, the AHRC used its website to publicise the primary exemption application and the interim exemption application and to invite submissions. In response, submissions were received, including from the family members and carers of supported employees. A small number of submissions were received from people with disability. These submissions, and others, were also before the Tribunal. In this context, Mr Fogarty, for the applicant, reiterated, however, that the applicant made no complaint about the procedure adopted by the AHRC. AED adopted the same position as the applicant.

118 It was, in our opinion, to be reasonably expected that, leaving aside representative organisations and the ADEs themselves, family members and carers would be the principal people who made submissions on behalf of intellectually disabled employees. This was the group that were reasonably seen as principally affected by the decision in *Nojin*. As Mary Walsh stated “[i]f only our disabled family members could exercise their rights by doing submissions themselves, God help us, none of us would be here”. Intellectually disabled employees, depending on the extent of disability, are vulnerable because their disability can prevent or seriously impede their capacity to advocate on their own behalf. In most cases, they rely on their families and carers to advocate for them. We would not infer from the

PAGE 40 OF 46

120 In rejecting the applicant's and AED's submissions in this regard, we do not intend to diminish the importance of involving disabled employees, including intellectually disabled employees, in decisions affecting their employment. We accept that, as Ms Cooper stated, the NDS was "very cognisant of ensuring that ADEs [were] aware of their obligations to ... consult with employees as much as possible". It may be accepted that thought must always be given as to how this consultation is best done. In the present case, however, no-one suggested that the process used by the AHRC was deficient in any particular aspect; and the Tribunal has not only had the benefit of the submissions made to the AHRC, it has also had the benefit of the joined parties' submissions, including of Our Voice Australia, which, through Mary Walsh, emphasised the need to place the ADEs' supported employees at the centre of the decision-making about their employment.

These two excerpts are from the decision Notice, and the other is from the relevant transcript on the topic of submission-weighting.

We have provided some excerpts to substantiate our case, but we do recommend that all parties access, using their own resources, the relevant transcripts. For this case, as with all others, we had no legal representation, and covered our own expenses for the case – heard in Melbourne. The transcripts cost \$1300.00.

30

MR FOGARTY: Well, they might have referred to the submissions they received from the persons themselves. It's silent, absolutely silent. And I'll say this, it's silent about, and I'll find a reference, it's silent about the submissions from the workers but it's not silent about submissions from the

35

parents. If you give me a moment I can find - there are references in there about those submissions. So it ought to have considered - and they're set out, it's tab 14 of the authorities that were handed up with the applicant's extracted - the submissions from the workers T140, 141 and 147.

40

And again, it's all about weight and I simply accept that parents and other persons who might support people with disability who work in ADEs would have a view. But some of these, particularly T140 and 141 are expressed from a person, a worker with disability under BSWAT in fairly strong terms and concerning terms for them, that the exemption would be granted. And it is absolutely - the decisions make no reference at all to any of those submissions.

45

Mr. Fogarty represented PWDA – The applicant.

The history of the AAT Appeal is relevant because it demonstrates the importance of ensuring sufficient time for an orderly transition when introducing a new wage system/tool. The lack of appropriately trained assessors, to handle the quantum of assessments, as well as the cost and time needed for travel were issues with the transition to removing the BSWAT. These are also documented issues in the current ARTD Report.

The late Mr. Paul Cain (now Inclusion Australia) again emerged as the expert witness for PWDA and AEDLC in the AAT appeal against the Human Rights Commission, as with the Federal Court [2012] *FCAFC 192*. This appeal, by extension, also “roped-in” NDS and Our Voice Australia representing employees who needed the extensions, which subsequently became the subject of this Appeal.

It was successfully argued by the Commonwealth in this case that the AAT appeal, if accepted on its argued appeal grounds, would have established “legacy claims” under the BSWAT Compensation Scheme, and its quantum. The transition time – with exemptions and extensions - was reasonable given the shortage of assessors. The whole transition was overseen and reported quarterly to the FWC for public accountability.

Prima facie the appeal sought to introduce a new class of entitled ADE employee – those whose primary disability was NOT intellectual disability, as established in both the BSWAT case and its subsequent compensation payment scheme.

The appeal by PWDA and associates was dismissed.

ATTACHMENT A

PROPOSED DETERMINATION

The *Supported Employment Services Award 2010* is varied as follows:

1. Insert the following new clause:

9A. Rights at Work for Supported Employees

9A.1 When dealing with employment matters affecting supported employees the employer shall take all reasonable steps to provide such employees with the information they require to exercise their employment rights.

9A.2 Such reasonable steps will include but are not limited to the following.

- Providing information to supported employees of their right to be a member of the union and be represented in the workplace by a union representative.
- Providing information in relation to seeking information and or assistance from the Fair Work Ombudsman.
- Providing information to a supported employee about their right to have their nominee, guardian, carer, parent or other family member, advocate or union assist them in making decisions about employment matters.

9A.3 In addition to those matters listed in clause 9A.2 the employer shall take reasonable steps to provide the opportunity to the supported employee to have their nominee, guardian, carer, parent or other family member, advocate or union involved in, or consulted or act as the employee's representative in employment matters that affect or may affect the supported employee's interests.

9A.4 Such matters shall include but not be limited to:

- consultation about significant workplace change under clause 8;
- consultation about changes to rosters or hours of work under clause 8A;
- any dispute under clause 9 or other grievance;
- wage assessments under clause 14.4(a) and Schedule D;
- any disciplinary matter; and
- performance appraisals.

These 14 Witness Statements have been redacted - the originals have been provided to the Fair Work Commission under separate cover.

They are all from ADE employees who worked with ACTIV services and have now been made redundant
Three are female - the other 11 are male
There is no gender inequity, as referenced in the combined advocacy and Union submission.

The statements have been freely given , so we assume they are representative of the workforce - or of those who wanted to become involved in sharing their hurt and stress.
They want to be heard - and seen - for the individual reasons provided.
One submission provides some insight of the reduction in overall take-home pay when they worked in open employment as opposed to the ADE.
And you can't out a price on personal and financial security.

The age range is as follows

4 in the 20's
7 in the 30's
1 in the 40's
1 in the 50's
1 aged 70 - with 50 years experience in many areas.

Most of the submitters have worked in open employment - which didn't work for them
We have identified only those who made statements to that effect within their submissions.

That is 8 of the 14

Their insight is invaluable in explaining why the campaigning (reverse ableism) from within the disability population,- insisting on nothing other than "open" employment - is a step too far for most ADE workers. They need a step in-between -or just be afforded the right to work in a job of their choice. That's a very basic human right they are being denied.

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] age 27 years, live at [REDACTED]

[REDACTED] Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my *Step Mother*
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 27 years old and live *with family* at [REDACTED]
[REDACTED]
5. I get to work by *My Dad drives me*
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 6 year.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. *This made we destressed and annoyed because I like my job and I don't want to leave* [REDACTED]

Signed by [REDACTED]

Witnessed by [REDACTED]

Robert Malcolm Syme

Justice of Peace No. 3873
Western Australia

8. I work there because I receive a Disability Support Pension and that's where I want to work. At [redacted] because I feel safe and supported in my position, I have made good friends and I am treated as just another worker not as a worker that is different to everyone else. My position at active have helped me become more independent and given me something to do outside of my bedroom. The fact that I can still keep my pension ensures that if I need to take time off because of my disability I still have my pension to pay my bills. I have tried working at other places and was not happy they would keep changing my work routine on me frustrating me causing me to hit my head.

9. My job there is *working in Timber workshop where I make pallets*

10. I like my job because

- Because it gives me money
- Let's me make friends
- My girlfriend works there
- I like making thing
- They don't make me change my work
- My work is set so I know what to do at every step
- It gives me something to look forward to
- I have been able to learn at my own pace
- I like my work colleagues
- I get to have fun while I work not stressed

11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179). I would miss

- *my friends,*
- *my girlfriend,*
- *having a job to go to,*
- being able to tell my family how many pallets I made each day

and not having [redacted] I would feel angry that I no longer have my job to go to and sad I won't be able to see my friends and girlfriend every day and I would spend my days in my room ,Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by

Witnessed by

[redacted signature]
Robert Malcolm Syme
Justice of Peace No. 3873
Western Australia

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD 2010 AM 2014/286

WITNESS STATEMENT OF: [REDACTED]

I, [REDACTED] age 33 years, live at [REDACTED]
[REDACTED] declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my family member (mother).
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 33 years old and live in supported accommodation at [REDACTED].
5. I get to work by private bus as I cannot catch public transport.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 15 years. First at [REDACTED].
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I am very unhappy, sad and angry that I am going to lose my job. I feel that no one is listening to me and what I want. If I lose my job, I will be sad and bored with nothing to do. I will miss my friends at work.
8. I work there because I receive a Disability Support Pension and that's where I want to work. I want to stay at [REDACTED] for ever until I retire. When I was in year 12, I did work experience in open employment at the [REDACTED]. My job was to clean the buses. I didn't like it. It was not my thing. People were nice but I didn't feel part of the group. People were friendly but I didn't feel comfortable. There was no one else like me to talk to. I had no friends. I was treated not like a staff member. They said that they couldn't employ me without money to pay my salary and for someone to support me. I then did work experience at [REDACTED] and I loved it. I felt welcome, I had lots of friends and the staff were really nice. I was so excited when they offered me a job. I want to stay with [REDACTED].
9. My job at [REDACTED] is that I am second in charge of the canteen. I make sure that the canteen is clean and I keep an eye on supplies and let [REDACTED] (supervisor) know when we need to replace milk. I also make sure that people follow COVID instructions.
10. I love my job and I don't want to do anything else. My job is important. I like the people who I work with, the support staff and all the other workers at [REDACTED]. They are my friends. I feel accepted and part of the group. I am not lonely or bored. I like getting paid, it is my holiday and spending money.
11. I know that the Government wants me to get a fair pay and the wage case has been

[REDACTED]
JP4799
11/7/2022

explained to me. But losing my job will mean no pay and that's not what I want.
(Refer in footer to Paras 359 and 360 [2019] FWCFB 8179). I would miss all the
[redacted] staff and my friends. It makes me sad to think about it. It makes me cry. I want
to stay at [redacted]

Each page must be signed by the person making the declaration and witnessed
by a Justice of the Peace

Signed
by..... [redacted]

Witnessed
by..... [redacted] 11/7/2022

Karen Rae Mills
A Justice of the Peace for
Western Australia
Reg. No. 4799

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] 28, live at [REDACTED] Western Australia
declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my family member/legal guardian.
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 28 years old and live in the family home at [REDACTED] WA.
5. I get to work by subsidised Taxi as I am unable to use 3 public transports to get to my workplace.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 9 years
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I love going to work at [REDACTED] as I like to be able to say to family and friends and at sport clubs that "yes I have a job". I found open employment very stressful. I prefer my [REDACTED] workplace and enjoy it.

Signed by.....

Witnessed by

Ivan Calligaro JP
Justice of the Peace
Western Australian Reg. No: 29545

8. I work there because I receive a Disability Support Pension and that's where I want to work.


When I left school, I got some work experience in an aged care kitchen because I like cooking. Through a DES provider, they got some work funding for the aged care company for me to continue for 6 months at 8 hours a week (over 2 days), for minimum wage. I enjoyed my time at the aged care place, I felt I was useful in the kitchen and the residents all liked me and so did the staff.

I continued for my whole six months, only having 2 days off over this time (both for sickness).

The minute the funding ceased at the end of the six months, the aged care company wouldn't continue my employment with me because they had to pay my wages (it was only 8 hours a week at \$21/hour plus Super). This was devastating for me but even more so for my family, especially my Mother, who was also working herself at this time when I was at work. She enjoyed her work and at that stage, I couldn't be left home alone if I did not have my open employment workplace to go to – I was 19.

The aged care company liked me and my work so much, that they rang my parents and "encouraged me to continue the same hours but as a volunteer, ie no pay". My Father said if I was good enough to volunteer and had a fantastic work reference, then I was good enough to be paid this small amount.

My Mother became mentally unwell for a short period after this devastating news as it greatly affected her life too, just as  closing will greatly affect her life AGAIN. I missed my workplace and I had nothing to do on those days when I lost my job.

After a short while, my Mum and I went to  and signed on for 2 days a week, I was made to feel very welcome. I loved this workplace and 9 years later, I still do. I feel safe there, I enjoy the work, I don't get stressed about the work like I used to at open employment.

My Mum is much happier as she knows I am happier and that this workplace (or so we thought), would continue forever.

Signed by.....

Witnessed by



Ivan Calligaro JP
Justice of the Peace
Western Australian Reg. No: 29545

Now we are both feeling mentally and emotionally fragile due to [redacted] maybe not continuing. I am "feeling devastated" as are my friends. My Mum and Dad don't trust Open Employment as we have heard and know of a few people who have had experiences like we have had. It is not a long term option in open employment, it is insecure for people like me.

We have approached other workplaces independently for me to volunteer in their kitchen one morning a week but no companies will do that for me as they are scared of disability and don't know me. Now I volunteer one morning a week at a school canteen and I love it, the Canteen Manager is so good to me but there is no option of a job there and I still like [redacted] and just want to keep my volunteer school canteen morning.

My friends who work in open employment are usually working there because their parents or family relatives own the company but they say they eat lunch by themselves and don't really talk to anyone at work. I didn't have any friends at the aged care place. I ate lunch on my own. I much prefer [redacted] as being in this workplace and not talking to anyone, eating lunch on my own, wouldn't make me happy. Why can't people just leave [redacted] alone, we are important too.

9. My job there is packaging and I can move around to other areas of work in the workshop, such as labelling, cutlery and packing.
10. I like my job because:
- I feel confident going to my workplace and whilst I am there
 - I enjoy my job without feeling stressed about what I am asked to complete
 - I don't worry about my work as I did in open employment
 - I have friends that I love to see when I go to work, it makes me happy and I can talk to them and they relate to me
 - My supervisors and work staff are very aware of my/our disabilities and this is important in making [redacted] an enjoyable, safe workplace.
 - I like my routine, I feel emotionally confident and well respected
11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to *Paras 359 and 360 [2019] FWCFB 8179*).


I would miss be able to say to people proudly "I have a job"

Signed by.....

Witnessed by.....

Ivan Calligaro JP
Justice of the Peace
Western Australian Reg. No: 29545
3

I would miss feeling happy to go to my workplace and not feeling stressed about it

I wouldn't enjoy open employment because I have tried it, I need  to stay open because I was very upset when I heard it was closing. What will I do and how will I see my friends, supervisors and occupy my time

The pay amount doesn't worry me or my parents, they are happy because I am happy and it is a secure job whereas open employment isn't.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by.....

Witnessed by



Ivan Calligaro JP
Justice of the Peace
Western Australian Reg. No: 29545

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : 

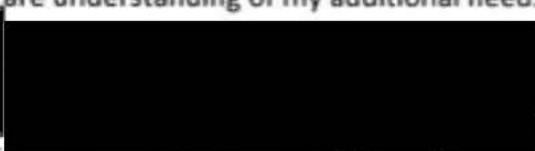
I, , age 34, live at  Western Australia
declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by  who is my Mother and advocate.
3. I want the Government to hear from me because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 34 years old and live independently at , WA
5. I get to work by support worker provided transport
6. I work for /Disability Support Services Perth & WA in their factory at  It is an Australian Disability Enterprise (ADE). I have worked there for 17 years.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I love attending work and without a suitable supported job I will feel isolated and bored.
8. I work there because I receive a Disability Support Pension and that's where I want to work because –
 - i. I am treated with respect at my workplace and am given the opportunity to work at my own pace allowing for my physical and intellectual abilities.
 - ii. The staff are understanding of my additional needs and I feel a

Signed by...

Witnessed by.....





J.P. 4802

05/07/2022.

valued member of the team.

- iii. My job connects me to other like minded individuals and provides me with a sense of purpose and satisfaction.
- iv. I want to continue working in packaging where I can be seated in a production line setting and fulfill my task within the team. I need full supervision to achieve these tasks.
- v. Other family members have choice in their employment opportunities and I believe I should have similar choices to work where I am a valued member of the team and feel confident and appreciated.
- vi. I find it extremely difficult to connect with others in the community and most interactions are very superficial, however when I am at work I am accepted by my friends and supervisors and my opinions, thoughts and interests are valued. This is very important to my mental health and well being.

9. My job there is General Hand. I package items such as RAT tests, water bottles for airlines, show bags. I also sometimes do labelling of food items and stickers for mail outs.

10. I like my job because: -

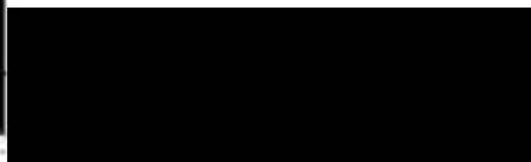
- i. I can see my friends,
- ii. - I am not bored all day,
- iii. I am valued,
- iv. I can learn new tasks,
- v. my work is appreciated,
- vi. I like the staff that help me,
- vii. my physical and intellectual needs are met,
- viii. I have fun,
- ix. I am physically safe and supported to remain so,
- x. I can buy things at the canteen on my own,
- xi. I earn some money to spend when I am out in the community

11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's **not** what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss my friends and the work I do. I would be bored and lonely without my work.

Signed by.....



Witnessed by.....



4802

05/07/2022

Each page must be signed by the person making the declaration and witnessed by
a Justice of the Peace

Signed by



Witnessed by.....

6 PETER JOHN MITCHELL J.P. (WA)
4802 05/07/2022.

Mr Peter John MITCHELL



W

FAIR WORK COMMISSION
Fair Work Act 2009
s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] aged 24 years, live at [REDACTED]
[REDACTED] Western Australia declare as follows: -

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am completing this form by myself.
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 24 years old and live *independently* at [REDACTED]
[REDACTED]
5. I get to work by driving my own car.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 5 years.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I feel annoyed, stressed about work closing down and I will very bored.

Signed by.. [REDACTED] ..

Witnessed by..... Signed [REDACTED]

8. I work there because I receive a Disability Support Pension and that's where I chose to work. I have tried to get a job in open employment and I was unsuccessful. I tried with [redacted] but they did not find me a job so I went to work at [redacted]. I recently applied at [redacted] and I went for a job interview and they did not get back to me so I had to contact them and they said I was unsuccessful but to try again in a month or two. Their sign still says they are still taking applicants. I have emailed [redacted] disability help email address to apply for a job and I have never heard back.
9. My job at [redacted] is Airline cutlery rolling.
10. I like my job because I have learnt new skills and I like making new friends and hanging out with friends. My friends at [redacted] are really good people. They are easy to talk to. They listen to me when I talk to them.
11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want. (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179). I would miss hanging out with friends and I like going to work I feel happy when doing work. I feel satisfied.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by [redacted]

Witnessed by [redacted] signed [redacted]

Phillip Andrew Draher

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] age 30, live at [REDACTED]

[REDACTED] Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my *advocate, legal guardian and also my plenary administrator.*
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.

4. I am 30 years old and live *independently* at [REDACTED]
[REDACTED] I have ongoing occupational therapy and speech therapy at my home. They have helped me maintain my independence by teaching me how to be safe in my kitchen whilst I do my cooking. They have helped me with my cooking skills too and have shown me how to cook a variety of foods. They have taught me to clean my own home and I now understand how bad dust is and so I now know about the importance of vacuum cleaning and also washing my floors. They also taught me how to clean my toilet and scrub my shower recess. I cannot work full time because I have to look after myself. I need time to clean my home and for doctors and other appointments like my OT and Speech. This is why my Mum has only set aside two days a week to work at [REDACTED] My Mum also says I must set time aside to do life skills training, which I do on Thursdays and Fridays nights, as

Signed by..... [REDACTED]

Witnessed by: [REDACTED] Michelle McAnuff
B.Pharm MPS JP 28489

well as having fun with the group. I also have a Host Family who I stay with after work on Monday nights and they help me think about my life and teach me other life skills. They also work with my Speech and OT to make sure I keep practising all the things they teach me. I am learning to text better at the moment.

5. I get to work by public transport. I take two trains and then walk 800m. I do this as sometimes I meet my friends who are co-workers, at the city train station. I get a coffee from the shop I like, then drink it with them whilst we are waiting for our train to take us to [REDACTED] station. We get off there and walk together to work. I go home the same way as some of my friends go back with me to the city station. My Mum says I should use the buses as they are a more direct route to work, but I don't have my friends on them, so I would rather take the trains which is the longer way, but I have more fun that way. Mum says I get up too early at 4.45am to get to work because I take the long route. I don't mind doing this, as I want to travel with my friends and co-workers. Also, by going in early, we can sit together in the canteen and we talk until it is time to start our jobs. I put my heat up lunch box in the pie warmer, then put my phone in my bag and then my bag into my own locker, then I walk onto the work floor.

6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 17 years.

7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job as I don't want to work unless I can work with the friends I have known for most of my working life. If I was not in a workplace with lots of people and friends, I would not enjoy my work days. When I tried open employment, in each job, everybody was too busy to help show me all the time what to do. When I finished one task, I would stand and wait until

Signed by...

Witnessed by

Michelle McAnuff ...
B.Pharm MPS JP 28489

someone showed me another job. I would finish it real quick and then I would have to stand and wait again until someone else showed me something else to do. I felt a bit sick in my stomach. I didn't like going back there the next day. It was like this with all the jobs that I was told to try.

8. I work there at [REDACTED] because I receive a Disability Support Pension and that's where I want to work. I like to work with my friends. Some of them come to work with me and when we go home, we catch the train together. I have tried working in open employment 4 times and I did not make friends. No one came to work with me and I had no one to meet and go home from work with. Whilst in Year 12 at high school I worked for 4 weeks in a hospital kitchen. I did dishes, wiped bench tops down, hung up tea towels, stirred pots but we weren't allowed to cook anything. I also worked at an Op Shop in Fremantle, hanging up clothes on coat hangers, general tidying up after people had put things in the wrong place. There was only one other worker here and she didn't talk to me all day. I didn't like that. I worked for a painting business for one week, helping to put drop sheets in place, take the masking tape off the walls, skirting boards and doors, and I was told not to take the paint off, but I didn't know how to stop taking the paint off because the tape was stuck to the walls. They got cross with me for pulling paint off walls. They asked me to use the vacuum cleaner to clean up a van and it has a container of water tipped over in it and so I vacuumed it all up. This broke the vacuum cleaner and then they got cross with me again. I didn't like this work as I made people unhappy. My fourth job in open employment was for a boat-building company. They were very busy and no one had time to show me too many things. I got to scrub an old dingy down and they told me to take all day. It hurt my back bending over and my knees hurt at the end of the day from kneeling too long. I did four days there and they gave me a nice farewell on the 5th day. I never made any friends in any of these workplaces.

9. My job at [REDACTED] is at the moment, in the Timber section. I love it, love it! They said I can stay in this section as long as I am still enjoying myself. I make

Signed by...



Witnessed by

[REDACTED]
Christhelle McAnuff

[REDACTED]
...J.P. 28489.....

carpentry horses for Bunnings and we put bed bases together for bedding companies. Then sometimes, we paint them. I have learned to use a power drill which I love. Now I can hang things a bit better in my own flat. My other favourite job to do is putting all the Royal Show bags together. It is so much fun. I really like to see what is in the show bags and then I know which ones I am going to buy when I get to visit the Royal Show and I like having my list all ready when I go. I also have learned to use the canteen coffee machine. I can now serve coffee to my co-workers and I know how to clean the machine, which always needs cleaning after each day. I make Tree Guards which are used to keep a tree in place when it is growing. Another job I have done is package door seals. I put tape around each individual door seal and they get packaged together in a box.

10. I like my job because I have friends there. I see them more than my family because I live independently. We all talk about what we are doing and we also talk about relationships between friends and girlfriends and boyfriends. I don't always want to talk about this with my family when I do meet up with them. They always ask me questions and sometimes I do not answer them. I only want to talk to my friends. My Mum says I should call them co-workers but they are my friends.

11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay at all, and that's not what I want either. (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179). I know that the Disability Support Pension allows me to pay my rent, electricity, gas and water usage. I receive reductions for these bills. My small  pay has always allowed me to be happy and live my life where I live. I go to my local pub where I eat and watch my local football team play with other people that come to the pub too. Sometimes they sit with me and we watch the footy together. My pay has always been what I spend on my social life, and my pension pays my bills. I ride my bike everywhere and my  pay also pays for my repairs and services of my bike.

Signed by.....



Witnessed by.....



Michelle McAnuff
B.Pharm MPS JP 28489

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**


WITNESS STATEMENT OF : [REDACTED] (employee)

I, [REDACTED], age 23 live at [REDACTED] Western Australia
declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form with [REDACTED] who is my family member.
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 23 years old and live with my family at [REDACTED]
5. I get to work with transport supplied by my family member, [REDACTED]
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED]. It is an Australian Disability Enterprise (ADE). I have worked there for 2 years
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I want my life to feel important. I want to help others. I want to feel proud of what I do at my job. I want to feel safe at work. This factory makes me feel like part of a team, I have work mates and my supervisor is always encouraging and supporting me. They make feel like a better person.

Signed by [REDACTED]

Witnessed by.....


6/8/2022
David Nicholas Goode JP
Justice of the Peace 8915

8. I work there because I receive a Disability Support Pension and that's where I want to work. This factory help me, teach me and support me.
In open employment no one talks to me, they think I am weird, customers are rude to me and I when get lost in my tasks I get yelled at for not doing my job. I don't get many hours and my family member has to have meetings to get me more hours each time a supervisor changes. I can not just work 3 hours once every fortnight. A couple of times 2 boys at work made we feel unsafe, they bullied me and it was really hard for me to go back to work. My family member had to get the boss to check security cameras to prove that they were mean.
When I am wiping tables in the dining room I can hear people say nasty things about me, they are laughing at me, and it makes me sad. I try really hard at that job but many workers do not understand me.
9. My job there at [REDACTED] Factory is an industrial worker, I do labelling, packaging, shrink wrapping, sorting, packing showbags. It changes but it is really good work.
10. I like my job because I get paid
11. I like my job because I now have true friends
12. I like the social outings that the Factory organise
13. I like to be busy and I feel proud when our team finishes the tasks our supervisor gives us.
14. Since having this job I feel stronger being me, I think with some more work and saving my money I might be able to live on my own. This job teaches me to do many things that make me feel independent.
15. I like that I can come to work and do what I like to do, not what my family member wants me to do. I feel I can make choices like other adults. Being able to make this decision is important to me
16. I feel accepted at my workplace, and everyone is really nice. We are all a little different but we help each other. I like how we support each other.

Signed by [REDACTED]

Witnessed by.....

07/2022
David Nicholas Goode JP
Justice of the Peace 8915

17. The support workers that supervise me help me, train me, keep me on task. They support me if I am confused and then make me feel important and wanted
18. I like that I feel safe at work, no one pushes me around, laughs at me or says nasty things to me.
19. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss feeling important and having a purpose to my day and will be unhappy, scared, sad, bored and feel stupid without my job

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by



Witnessed by



6/7/2022
David Nicholas Goode JP
Justice of the Peace 8915

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] age 34, live at [REDACTED] Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my family member.
3. I want the Government to hear from me because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 34 years old and live independently with wife [REDACTED] at [REDACTED]
[REDACTED]
5. I get to work by driving myself.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 5.5 years, and previous to that for just over a year.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. This has caused stress for me as I remember back to the experiences of previous open employment.

Signed by [REDACTED]

Witnessed by [REDACTED]

Bernadette Bator Rezakallah
Pharmacist
12/7/2022

ST CLAIR PHARMACY & NEWS
Shop 7, Stargate Shopping Centre
100 Belmont Avenue, Port Kennedy
Telephone: (08) 9593 0299

8. I work there because I receive a Disability Support Pension and that's where I want to work.

I have tried open employment on several occasions but was not successful long term

- When I first left school, I was unsuccessful in securing work after being registered with several agencies. I felt disillusioned so I decided that I would participate in work experience to increase my chance of employment, this included the companies of [REDACTED] [REDACTED] and [REDACTED]. Even with this, I did not have any success. I felt very disappointed as I had tried very hard to do my best, but I knew during the work experience not enough support was given and the people did not understand my disabilities.
- So, in 2007 I commenced at [REDACTED] on the 'Property Care' crew and stayed just over 1 year. This led me to trying open employment once again as I had gained some confidence.
- I secured open employment at [REDACTED] as an apprentice [REDACTED] – full time. After a short period, I was notified that I was not able to complete the apprenticeship due to my learning/physical disability. Once again, the support I required was not available. My supervisor was very kind and offered for me to work one day a week to do tasks that I was capable of. He was my primary support at work as he had compassion and understood my capabilities. Unfortunately, he died in a tragic accident (not at work). After that, my support at work was not the same and I felt very sad and alone. So, I decided to leave.
- I continued to look for open employment once again and secured a traineeship with [REDACTED] (Cert II in Business). I did not end up completing this as they made me redundant. The reason given was one that I could not understand. My feelings from this workplace were one of confusion, disappointment, and failure. Once again, my confidence was severely dented.
- I then secured another traineeship with [REDACTED] [REDACTED] Cert III in Business. I did complete the traineeship and they tried to keep me employed but I struggled with the new tasks that I was given. I did have some support but only in limited amounts. Hence then, they were unable to offer me a permanent job. This made me feel very sad and disappointed once again.

9. My job there is General Hand – assembling valves, labelling PY test balloons for hospitals, pinning sports carnival ribbons and NBN tags.

Signed by [REDACTED]

Witnessed by [REDACTED]

Bernadette Gator Rizkallah
Pharmacist
12/7/2022

ST CLAIR PHARMACY & NEWS
Shop R, Stargate Shopping Centre
49 Chelmsford Avenue, Port Kaituma
Telephone: (08) 959 2131

I like my job because

- I have success in completing tasks well and this makes me feel good.
- I like the routine of the job and the schedule of days at work.
- The extra income I earn enables me to pay a mortgage with my partner [REDACTED] as we own a 'Shared Equity' house.
- I do not have to report earnings to Centerlink as this is automatic with [REDACTED]. This gives me peace of mind.
- I have good friends at [REDACTED]. It feels good socially.
- up until now, did feel that I had job security.

10. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss the comradeship at work. Also, the feeling of contributing to society and being like other people. It would really stress me if I had to find open employment as I have never had any success in the many years of trying.

Signed by

Witnessed by

[REDACTED]
Benedette Goutor Rizkallah
Pharmacist
12/7/2022

ST CLAIR PHARMACY & NEWS
Shop N, Sargate Shopping Centre
49 Chelmsford Avenue, Port Kenneth
Telephone: (08) 9593 0299

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD 2010
AM 2014/286**

WITNESS STATEMENT OF [REDACTED]

I, [REDACTED] age 37, live at [REDACTED]
Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my Mother and Advocate
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 37 years old and live independently, with support, at [REDACTED]
[REDACTED] get to work by public transport
5. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 20 years. I have worked at various [REDACTED] sites since leaving school
6. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. I like working at [REDACTED] and have friends there. I have tried open employment in the past but it was hard to find any business that could support me in the workplace. They did not understand that I could not work at the same speed and accuracy as regular employees. None of them were prepared to make allowances for me and support my extra needs. I was not 'profitable' enough to them

Signed by...

Witnessed by...

[REDACTED]
[REDACTED] (1121) 705-62 MARKUM

CHIROPRAC 102

7. I work at [REDACTED] because I receive a Disability Support Pension and do not have the skills to compete in open employment. It is a place where I feel safe and can go to the staff if I have any problems
8. My job there is currently packing RAT tests but I have done many things such as cutlery, airline headsets, woodwork, packing dry ice, making pallets etc
9. I want to keep my job because:
I feel supported and not put under pressure. I have a variety of work and good company.
In open employment they expect so much more of you and I found it was too stressful trying to learn the tasks and did not feel valued or respected.
There are very few opportunities for people like myself who have conditions which affect us in so many ways: cognitive function, emotional immaturity, literacy and numeracy, social skills and awareness, communication
Society does not provide support and opportunity for us to work alongside non-disabled people in a supportive environment
10. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss the company of my fellow employees and the support staff. We have fun and enjoy working together. I would miss having a place to go during work times and would be bored. I would probably spend too much time doing unhealthy or dangerous things due to boredom. I would need more support from my carers to fill in this time. This would mean the need for greater NDIS funding. My pension would have to be increased to pay for extra activities filling in the extra time. It would actually be far more expensive to support me out of work rather than in supported work

Signed by..

Witnessed by..

[REDACTED]
[REDACTED] CHRISTOPHER MOSEY CHRISTOPHER MOSEY

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED], age 70 years, live at [REDACTED]
Western Australia [REDACTED] declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my family member (sister).
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 70 years old and live with my family at [REDACTED] WA.
5. I get to work by taxi.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for over 50 years.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job and I don't understand why I have to.
I feel confused, sad, angry and really worried that I won't be able to go to work at [REDACTED]. I don't want another job. If I can't go to work at [REDACTED] won't be able to see my friends, I'll be lonely and bored with nothing to do during the day. Working is really important to me.

Signed by.... [REDACTED]

Witnessed by..... [REDACTED]

18/7/22

(Gary Tay)
pharmacist

Kalamunda
Elizabeth Street
Kalamunda WA 6076
Tel: 9293-1061 Fax: 9293-1803
51860L

8. I work there because I receive a Disability Support Pension and that's where I want to work.

I have tried open employment 4 times over the last 50 years. One job was putting plastic rope to a machine that made outdoor chairs. Another was moving metal strips for aluminium windows. That's all I remember. I didn't like any of them. I had help to learn each job and had public transport training because I needed to catch 2 buses going to the jobs and back, for each job. One time I got on the wrong bus and ended up 13 kilometres from my home. I was lost and didn't know how to get home or to get help.

Every time I tried a job in an open employment setting I became traumatized. I would always get confused and couldn't keep up with the work required.

I have trouble staying on task and have a short attention span. I couldn't get enough assistance in those jobs. I need prompting to stay on task and to remind me what the job is and that wasn't possible where I worked.

Loud or unexpected noises scare me, that made some jobs difficult. I can't work when there is lots of noise and things going on that worry me.

I have trouble communicating my needs and wants. I don't understand everything people say but will say yes and agree with you even if I don't understand and this was a problem at work. People became upset with me and I got stressed all the time.

I am a shy person and didn't have any friends where I worked. People didn't want to be friends with someone who was different to them. They were mostly nice but didn't understand me and didn't want to have lunch with me or talk to me.

I would get angry and have tantrums and didn't want to go to work. I just wanted to back to [redacted] where I felt safe. At [redacted] they are patient with me and take the time to understand my needs and to help me when I need help. I get my work done and I have friends there.

9. My job there is cutlery packing, placing labels on bottles, placing paper in envelopes, packing show bags.

10. I like my job because I get to see my friends every day.

I like the staff and they take care of me if I get upset. I feel safe going to work at [redacted] I get paid because I do a good job. I like doing a good job. I like when we have BBQ lunches, the Christmas party and sausage sizzles. We are all friends at work.

The staff understand me


Signed by...

Witnessed by

[redacted]

(Gray Taylor)
18/7/12 phis...
[redacted]

HillsView Pharmacy Kalamunda
2/37 Elizabeth Street
Kalamunda WA 6076
Tel: 9293-1061 Fax: 9293-1803
51860L

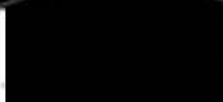
11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Paras 359 and 360 [2019] FWCFB 8179). I would miss a huge part of my life. I would lose my sense of purpose and pride, my confidence and self-esteem and be sad, depressed and lost. I felt that way when I worked at other places. I don't want to feel that way again.
12. This is a note from my sister  has the intellectual capabilities of a 7 year old child. Every time she tried open employment it felt like sending a 7 year old girl off to work on public transport, the last time she had to take 2 buses both ways, to go to work in a factory assembling aluminium frames.
Open employment isn't for everyone.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by.....



Witnessed by.....

 (My Mum)
pharmacist
18/12/22

HillsView Pharmacy Kalamunda
2/37 Elizabeth Street. 
Kalamunda WA 6076
Tel: 9293-1061 Fax: 9293-1803
51860L

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES
AWARD 2010 AM 2014/286**

WITNESS STATEMENT OF : [REDACTED] - (employee)

I, [REDACTED] age 46, live at [REDACTED] Western
Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my mother, with guardianship and administrator rights as per State Administrative Tribunal [REDACTED]
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 46 years old and live *in supported accommodation* at [REDACTED]
[REDACTED] Western Australia
5. I get to work by transport provided by [REDACTED] supported accommodation.
6. I work for [REDACTED] Foundation/Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 22 years.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job.

I have tried open employment and transport training – both were unsafe for me and unsuitable to my decision-making capabilities and communications skills. I

Signed by.....

Witnessed by.....

CATHERINE V. HEATH J.P.
JUSTICE C. THE PEACE W.A.
3..3

19 JUL 2022

would therefore, have limited to no other options for work elsewhere – options where I would feel safe and supported. I would have to sit at home and require more supervision by [redacted] supported accommodation carers during weekdays. I'm likely to withdraw, get angry and/or seek more funding support to pursue recreational pursuits.

8. I work there because I receive a Disability Support Pension and that's where I want to work.

I have tried open employment several times when I was younger, without success. I worked as a fruit and vegetable assistant at a supermarket.

I lost my jobs because I swore at customers and staff.

My family were told I wasn't the right fit for the job.

I also lost my job at a plant nursery when a staff member said I became aggressive when I couldn't do a task.

My family knows I only do this when I am frustrated, distressed and unsupported.

It highlighted also to my family that those supervising me had never worked with people with an intellectual disability. They lacked the knowledge and compassion to support me.

I lost weight and became unwell after experiences in open employment.

One time, I tried to ride my bike to the supermarket where I worked via the freeway, without a helmet, when my bus did not show. I was worried I would be late to work. Luckily my sister found me on a busy road before I made it to the freeway as I was following the bus route.

Open employment is not at all suitable for me, despite several attempts and on-the-job and transport training.

9. My job there is General Hand packing of airline cutlery and other packing and sorting jobs that are needed.

10. I like my job because:

- I need support in my day-to-day life and I thrive and I'm most happy when I have routine, which is why [redacted] workshops are the best workplace for me.
- When I stay at home or go on holidays, I ask to go to work.
- I feel proud of my work
- I feel accepted and safe where I work.

Signed by.....

Witnessed by

[redacted] 6004 ✓ 0 ✓
JATHICER V. HEATH J.P.
JUSTICE C. THE PEACE W.A.
31.3

19 JUL 2022

- I like my friends where I work.
 - It gives me money to enjoy things with my family like holidays to Rottnest.
- Based on my 2020/21 income (with combined 'disability support pension' and 'supported wage'), if I worked in open employment and received the 'national minimum wage' for the equivalent hours worked at  would earn have earnt approximately \$7,000 less that financial year.

11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss my routine and social interaction and I would go backwards developmentally and socially. I would be sad and frustrated.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by 

Witnessed by  *A 6009*

KATHLEEN V. HEATH J.P.
JUSTICE OF THE PEACE WA.
0003

19 JUL 2022

Jurisdiction:

Guardianship and Administration Act 1990

Application:

Application to appoint a guardian and/or administrator

Parties:

Matter Number:

File Number:

Application Lodged:

Date of Decision:

Decision of:



The Tribunal declares that the represented person, [REDACTED] is:

- (a) unable by reason of a mental disability, to make reasonable judgments in respect of matters relating to all of his estate;
- (b) in need of an administrator of his estate;
- (c) unable to make reasonable judgments in respect of matters relating to his person; and
- (d) in need of a guardian.

The Tribunal orders:

Administration

1. [REDACTED] Western Australia is appointed plenary administrator of the represented person's estate with all the powers and duties conferred by the Guardianship and Administration Act 1990 (WA).
2. The administration order is to be reviewed by [REDACTED]


Guardianship

3. [REDACTED] Western Australia is appointed limited guardian of the represented person with the following functions:
 - (a) to decide where the represented person is to live, whether permanently or temporarily;
 - (b) to decide with whom the represented person is to live;
 - (c) to make treatment decisions for the represented person, subject to Division 3 of Part 5 of the Guardianship and Administration Act 1990 (WA), and



SAT STATE ADMINISTRATIVE TRIBUNAL

(d) to determine the services to which the represented person should have access.

4. The guardianship order is to be reviewed by 
5. It is declared that the represented person is not capable of making judgments for the purpose of complying with the provisions of the Electoral Act 1907 relating to compulsory voting.



IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286

WITNESS STATEMENT OF : [REDACTED]

I, [REDACTED] age 35, live at [REDACTED]

Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my mother.
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 35 years old and live with my family [REDACTED] WA,
[REDACTED]
5. I get to work and go home by public transport – I catch a train and a bus.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] WA. It is an Australian Disability Enterprise (ADE). I have worked there for nearly 15 years. I work in the packing department.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job because it would be very hard for me and I don't want another job. I feel very upset and sad and I know I will miss my friends. I will lose my sense of purpose and the pride I take in the work I do because I do a good job and it is important. I won't have any self confidence and I know I will feel bad about myself if I have to leave. [REDACTED]

Signed by [REDACTED]

19/7/22

Witnessed by [REDACTED]

19/7/22

8. I work there because I receive a Disability Support Pension and that's where I want to work. [redacted] gives me the sort of job I like doing and I like working there although I don't think the people at [redacted] and those making the decision to close care about me anymore. No body asked me what I wanted. I would have said stay here. I have tried working in open employment but it was not good for me.

9. Before I left school my parents did a lot of research into the opportunities for employment for me.

They went to look at the workshop set up and made the decision that it was not what they wanted for me.

We had friends who ran a tax accounting business and they were very keen to offer me employment.

I used to frank envelopes, shred paper, do the filing, and other jobs.

After a while disability services went to speak to my employer and offered financial support but my employer was adamant that I would get paid the going rate, so disability services offered a support worker to help to increase my skills.

The support worker got in the way really and so to keep him busy I would get him to do half of my work.

Eventually the support worker was asked to leave.

Then the end of financial year hit and the office was crazy busy and there was no one to give me work to do so I would try to be helpful but sadly some of the papers that I shredded were important and were not for shredding.

It became apparent that in spite of everyone's best efforts this was too difficult for everyone concerned.

Whilst working at the office I used to catch the bus but it was a very short bus ride so I would stay on the bus go past the office to the bus terminal and wait for the bus to go back round again.

This of course made me late and everyone would be looking for me.

Mum and dad decided that this wasn't going to work and I wasn't happy so we all agreed that I should leave.

Mum and dad decided to contact disability services and asked if I could be transport trained because I loved the freedom and independence that came from being able to travel alone.

The problem was that I needed a destination I couldn't just catch transport to random places.

So my parents decided to enrol me at [redacted] and decided if I didn't like it there I could just leave.

Signed by

[redacted signature]

19/7/22

Witnessed by

[redacted signature]

19/7/22

I have now worked at [redacted] for almost 15 years.
I absolutely love working there I have made a lot of friends and I enjoy the work.
My favourite job is working on the show bags.
I travel to and from work independently by bus and train there and back.
The point that needs to be made here is that my parents made the decision initially that they did not want me to work in a supported workshop but they didn't ask me about it.
I think that now other people are making that same decision without asking me
I want to continue working at [redacted] in the workshop.
I want to carry on travelling there myself.
The new plans are not helpful for me.

- 10. I like my job because I work in the packaging department and I really enjoy working there. I'm in team one and my supervisor is [redacted] My friends are [redacted] and [redacted] I travel to [redacted] by bus and train and I do this independently. I really enjoy travelling to work by myself During Covid my parents were taking me back and forth in the car and I didn't like that! Every Monday I get my payslip and when I get home I give it to my parents it makes me feel VERY proud. If I have to get another job it will be far away from my home and most of those places are not easy for me to travel to alone that will be very upsetting for me. I am stressed and worried about what will happen next year.
- 11. I want to stay at [redacted] because I am really happy there. The best parts are spending time with my friends and packing showbags. I feel safe at work and I don't get stressed or bullied. I get to learn new things because the jobs change. Going to work makes me more confident and happy. The staff are caring and cater for my physical needs.
- 12. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss my friends and having a job that makes me proud. I would be very sad and lonely.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace



Signed by [redacted]

19/7/22

Witnessed by [redacted]
Pharmacy 19/7/22

PHARMACY 777 CLARKSON
SHOP 145 OCEAN KEYS S/CENTRE
CLARKSON WA 6030
PH: 9407 7093

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD 2010
AM 2014/286**

WITNESS STATEMENT OF: [REDACTED]

I [REDACTED] age 34, live at [REDACTED] Western
Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my *father*.
3. I want the Government to hear from me because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 34 years old and live with my family at [REDACTED] WA
[REDACTED]
5. I get to work by *public transport*.
6. I work for [REDACTED] Disability Support Services Perth & WA in their factory at [REDACTED] It is an Australian Disability Enterprise (ADE). I have worked there for 16 years.
7. I was very upset when I was told that the factory would be closed and I would have to find another job. I might not get another job. *My work is important to me as I have a lot of friends at work and socialising is the main reason I enjoy work.*
8. I work there because I receive a Disability Support Pension and that's where I want to work. *When I was at school I went on a number of work experience placements. Some of these were in open employment where a carer accompanied me and assist me to learn the job. I did not like these as I made no friends through these placements. The other employees were nice to me though at lunch I would sit on my*

Signed by.....

Witnessed by.....

*Carol Chew
pmm4**

Pharmacy 777 South Pe
143 Canning Highway
South Perth WA 6151
P: (08) 9474 1958
E: southperth@pharmacy777.com

own as no one talked to me. I tried a gardening job but I don't like working in the garden I would rather work inside.

9. My job there is packing things in boxes, putting labels on things or sorting things in groups. I look forward each year to doing showbags.
10. I like my job because there are lots of people that speak to me and I have a lot of friends there. We sit and chat during tea break and lunch. I like to take my breakfast to work as I sit and have it with my friends before we start work. I feel independent as I catch the bus to work and back home with work friends. I like earning money to support myself.
11. I know that the Government wants me to get a fair pay and the wage case has been explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss seeing all my friends and having a purpose to get up in the morning. I feel proud in the shops when I show my family some of the packaging work I have done. Without the work, I would be bored, lonely and feel that I have no purpose in life.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

Signed by.....



Witnessed by.....



Oliver Chen
pharmacy

Pharmacy 777 South Perth
143 Canning Highway
South Perth WA 6151
P: (08) 9474 1958
E: southperth@pharmacy777.com.au

th
10

FAIR WORK COMMISSION

Fair Work Act 2009

s 156- 4 yearly review of modern awards

**IN THE MATTER OF A REVIEW OF THE SUPPORTED EMPLOYMENT SERVICES AWARD
2010 AM 2014/286**

WITNESS STATEMENT OF [REDACTED]

I, [REDACTED] age 56 live at [REDACTED] Western Australia declare as follows:-

1. I am a Member of Our Voice Australia. They speak for me about my job.
2. I am being helped to complete this form by [REDACTED] who is my *Family Member and Legal Guardian*.
3. I want the Government to hear from me, because this is about me and my job. My Job Counts. It is important to me. I want the Government to Hear Me and See Me.
4. I am 56 years old and live with my *Neice and other Legal Guardian* [REDACTED]
[REDACTED] at [REDACTED]
5. I get to work by being collected by my group employer by bus with all my friends.
6. I worked for [REDACTED] for over 30 years prior to its closure.
7. I was very upset when I was told that [REDACTED] would be closed and I would have to find another job. I would not be able to get an open employment position due to the level of my disability. As I live in a small town there is not a lot of places to go to where I could work with a support person with me to assist me to complete my role and allow me to feel valued.
8. I work there because I receive a Disability Support Pension and that's where I want to work. When I went to my niece [REDACTED] workplace when I was unable to get other supports she helped me to find some things to do but as it is a very busy

Signed by [REDACTED]

Witnessed by.. [REDACTED]

office I sometimes just had to play on my Ipad. I enjoyed folding brochures and cutting up old advertising pages to use as notebooks. All the staff were very busy and did not have a lot of time to talk to me when I wanted to chat to everyone whilst I was working like I used to be able to at [REDACTED]. When I worked at [REDACTED] I was also the Safety Person as I had worked there for so long and knew how all the machines worked and where everything should be so no-one would get hurt. It's hard to go to someplace new and it can be a bit frightening.

When my family joined with the other families and they went to [REDACTED] and talked to them about what could be done to help me and my friends find work I was very happy as they made the effort to get as many of us together as we could and even employed people that used to work with us at [REDACTED] so that we felt safe and could all be together.

We did not start work straight away as it took a while to organise things that we could do, but we set up vegie gardens and we have chooks to care for. We grew herbs and sold them so that we could each share in some of the money for growing them.

Now we do commercial cleaning and shredding and I love being able to work again and get a pay each fortnight like the other members of my family. I love going to work with my friends who all understand me and don't make me feel bad about myself as I am different to them like can sometimes happen when we go to other places where people haven't worked with someone disabled before. I have trouble speaking sometimes and not everyone can understand what I want, but my friends and the support workers are able to help me to be understood when I need help. It doesn't matter here that I may work a little slower than others and that sometimes when I do the vacuuming (which I love) that I may need to go over it a couple of times as I don't always see the dirty spots the first time.

9. My job there is - *cleaning and shredding.*

10. I like my job because I love to be helpful. I like being told I have done a good job and seeing that I have completed my work. I love working with my friends that I have been working with for a long time and also meeting new people in a safe environment. I like to do vacuuming and I love doing the shredding. I like the noise the shredder makes when it is working – I love showing new people what to do and how to use the shredder. The other day was very funny as we were shredding till rolls and they unrolled and went all over the floor whilst they were running through the shredder and I had to chase them and pick them up. My job makes me happy.

11. I know that the Government wants me to get a fair pay and the wage case has been

Signed by... [REDACTED]

Witnessed by, [REDACTED] 1.2.8 711

explained to me. But losing my job will mean no pay and that's not what I want (Refer in footer to Paras 359 and 360 [2019] FWCFB 8179) . I would miss *being with my friends and being able to go to work like all the other adults in my family and getting paid* and be very sad if I could not go to work. Until [redacted] started I couldn't see all my friends as we all had different carers and times and even though we could sometimes catch up for coffee it's not the same as working with them like I used to. I found it lonely and did not like it without my work friends.

Each page must be signed by the person making the declaration and witnessed by a Justice of the Peace

I verify that [redacted] is the legal guardian of [redacted]

Barry Stephen WROTH
Justice of the Peace in WA
#28711

Signed by [redacted]

Witnessed by [redacted]

21.2.8 711