

FAIR WORK COMMISSION

4 Yearly Review of Modern Awards

Supported Employment Services Award 2010

Matter No: AM2014/286

SUBMISSIONS – BLUELINE LAUNDRY INCORPORATED

BACKGROUND

1. Blueline Laundry Incorporated (**Blueline**) makes this submission in relation to the 4-yearly review of the *Supported Employment Services Award 2010 (Award)* in accordance with the directions of the Fair Work Commission dated 6 November 2017.
2. Blueline submits that:
 - (a) its current wage assessment tool, the Blueline Wage Assessment Tool (**WAT**), is consistent with the modern award objectives under section 134 of the *Fair Work Act 2009 (Act)*; and
 - (b) a determination that Blueline should exclusively use Supported Wage System (**SWS**) would be detrimental to Blueline's operations and not consistent with the modern award objectives under section 134 of the Act.

BLUELINE'S OPERATIONS

3. Blueline is an Australian Disability Enterprise (**ADE**) that operates a commercial laundry in Tasmania. It has work sites in Hobart and Launceston and currently employs 81 supported employees and approximately 160 other employees.
4. The supported employees work anywhere between 8 hours and 38 hours per week depending on their capacity and availability. The income of supported employees is supplemented by receiving a Disability Support Pension from Centrelink as well as other support which is means tested. This means that some supported employees will only want to work restricted hours because increased wages will result in minimum net increase.

CURRENT WAGE ASSESSMENT TOOL

5. The WAT is an industry specific tool which was developed with reference to the specific tasks undertaken in a commercial laundry.

6. The WAT allows Blueline to assess the productivity levels of a Supported Employee as a percentage of that achieved by an employee in a commercial laundry who is working:
 - (c) using the correct method and applying themselves to a variety of laundry tasks; and
 - (d) at a standard performance rate of working which is a rate of output which qualified workers will naturally achieve over the working day or shift provided they know and adhere to the specified method and provided they are motivated to apply themselves to their work.
7. The WAT specifies specific output targets for laundry tasks across the following work areas: wash room floor, roller ironers, steam tunnel, dryers, dry fold, dispatch and shute and conveyor operators.

MODERN AWARD REVIEW PROCESS

8. Section 157(1) of the Act provides that the Commission may exercise its power to vary a modern award where it is satisfied that the variation is “necessary” in order “to achieve the modern awards objective”.
9. The modern awards objective itself is broadly expressed. Section 134 provides that the Commission must ensure that modern awards “provide a fair and relevant minimum safety net of terms and conditions” taking into account a range of factors including the promotion of social inclusion through increased workforce participation and the need to promote flexible workforce participation.
10. In considering whether a variation to a modern award is “necessary”, the Full Bench of the Commission has determined that the following principles should be applied¹:
 - (a) the Commission will proceed on the basis that *prima facie* the modern award being reviewed achieved the modern awards objective at the time it was made; and
 - (b) variations to modern awards should be founded on merit based arguments. The extent of the argument and material required will depend on the circumstances.

EFFECT OF THE AMENDMENTS ON BLUELINE

11. Having regard to the modern award objectives Blueline submits that the Award should not be amended to require Blueline to use the SWS.

¹4 *Yearly Review of Modern Awards: Preliminary Jurisdictional Issues Decision* [2014] FWCFB 1788

12. If Blueline is required to apply the SWS it will have a significant cost impact on the business which will negatively impact Blueline's capacity to maintain the level of supported employees in employment.

Section 134(1)(a): relative living standards and the needs of the low paid

13. Blueline has obtained a report from Synergy Group Australia Pty Ltd that estimates that use of the SWS will result in increased wages of \$390,956. An extract of this report is **Attachment 'A'** to this submission.

14. Within the moderate budget, Blueline would have to seriously consider reducing its employment of supported employees. This is because the relative cost of employing a supported employee versus the output (or profit) generated by that employee is higher than a non-supported employee.

15. Blueline offers paid employment to supported employees who, without this employment, are unlikely to have employment opportunities within the geographical localities of Hobart or Launceston. The loss of employment would almost certainly leave those employees relying on Centrelink payments for income.

Section 134(1)(c): The need to promote social inclusion through increased workforce participation

16. Blueline's purpose is to *"improve the quality of life for people with intellectual disabilities through the provision of rewarding work opportunities in the laundry and other industries."*

17. Blueline's values are:

- (a) **Compassionate and Caring** – fostering and valuing a non-judgemental environment in which we care for each other;
- (b) **Supportive and People Centric** – enriching the lives of our supported employees by encouraging self-development and inspiring confidence to be respected contributors in the community;
- (c) **Focused on Safety** - embracing a shared safety culture that promotes responsibility by all, to protect against injury and harm;
- (d) **Committed to Quality** - displaying enthusiasm and commitment to being a reliable, high quality, preferred service provider, to both our internal (supported employees) and external customers; and

(e) **Integrity and Respect** - acting with integrity to foster a shared understanding of purpose, whilst respecting the diversity and individuality of our employees and other stakeholders.

18. Blueline is able to achieve its purpose and uphold its values by promoting social inclusion through providing opportunities for workforce participation and job security to supported employees.

19. Employees choose to work at Blueline because Blueline provides a supportive and inclusive workforce where they can gain real skills and experience by working alongside people without a disability. There is no requirement to seek work to be eligible for the Disability Support Pension, meaning that Blueline's supported employees attend work because they want to, rather than being required to do so.

20. Due to the higher average hourly rate if Blueline was required to move to the SWS, Blueline would need to place greater emphasis on selecting employees with higher levels of productivity which would mean that employees with less capacity would lose their social inclusion in the workplace.

21. Blueline would be likely to be unable to continue to provide the same level of support that it currently provides in the event of a mandatory move to the SWS, including:

(e) **holding positions open** – Blueline currently holds positions open for supported employees who leave to gain employment in the open market for 12 months. Within the last 3 years, out of 8 employees who have left Blueline for open employment, there have been six supported employees who have had to return due to other businesses being unable to support them as well as they were supported at Blueline;

(f) **no regression in wages** – currently, in circumstances where an employee's productivity or competency has decreased (such as where an employee has cognitive degeneration due to aging), Blueline does not decrease their wages; and

(g) **social activities** – Blueline actively provides and funds social activities for all its employees such as Christmas parties, movie nights and other functions. This is particularly valued by supported employees and their parents and carer's who often find work is their primary social outlet.

Section 134(d) The need to promote flexible modern work practices and the efficient and productive performance of work

22. Under Blueline's current WAT, supported employees receive less than the full minimum rate of pay because they are not able in most circumstances to carry out all the duties or tasks of a person without a disability.
23. The nature of an intellectual disability itself can have an impact on both quality and safety in a commercial laundry setting. Some of the issues include difficulty in remembering verbal instructions, limited attention span, inability to follow written instructions then require more stringent checks of the quality of they produce by the person supporting them. From a safety point of view, limited reaction times, coordination and mobility issues dictate the need for close supervision, often on a one-to-one basis, around moving machinery at all times.
24. For example, some employees with cognitive degeneration or very high support needs, will need to be re-trained for the same task every time they work at Blueline. This may mean that an employee without a disability will need to supervise the employee extensively or work very closely with them each time they work.
25. A supported employee's disability may have an impact on the tasks that they can safely carry out to a quality standard. These are issues which must be a consideration in any wage determination system, and Blueline's current WAT allows these factors to be taken into account in determining the appropriate level of pay for a supported employee on an individual basis.

Section 134(1)(f): The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden

26. As outlined above in paragraph 11, a consequence of Blueline applying the SWS is likely to result in a significant increase in employment costs which will negatively impact on the number of supported employees Blueline can continue to employ, and in turn, Blueline's ability to achieve its purpose.

Section 134(1)(g): The need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards

27. Blueline submits that determining wages based on how fast a person works does not reflect the nature of the work performed by supported employees in at Blueline where the work systems are designed to ensure that supported employees are supervised and operate in a safe environment.
28. Blueline would not object to the WAT being incorporated into the Award for the purpose

of greater transparency.

CONCLUSION

29. Having regard to the modern award objections under the Act, Blueline submits that a determination that Blueline should exclusively use SWS would be detrimental to Blueline's operations and not consistent with the modern award objectives under section 134 of the Act.



1.2 Potential Financial Impact of Future Change Events

Potential increase in supported employee wages resulting from High Court Decision on Business Services Wage Assessment Tool (BSWAT)

The recent High Court ruling that the productivity component of the BSWAT discriminated against intellectually disabled supported employees highlighted the potential for other supported employee tools to be challenged (and for wages to potentially increase).

A new wage assessment tool is being developed, and although exact details have not yet been released by DSS, it is understood that the new tool will be based on the Supported Wage System (SWS) wage assessment tool.

Synergy undertook a comparison of BlueLine Laundry's current supported wage payments assessed under the Supported Employment Services model against payments made under the SWS tool. This comparison was undertaken to estimate the potential financial impact of any future changes on the organisation.

Key findings are:

- The average hourly rate for supported employees under the SWS tool is significantly higher than the wage assessment tool used by BlueLine Laundry. For example, based on a sample of ADEs the average wage for supported employees under SWS system represents 55 per cent of the award. At BlueLine Laundry's Hobart operations the current average wage represents 34 per cent of the



award and at Launceston is 25 per cent of the award. It is therefore likely that BlueLine Laundry will face a significant increase in wages following introduction of a mandatory SWS-based system.

- DSS have announced arrangements for the supplementation of wages during the transition to the SWS tool. These arrangements are summarised in the table below but will involve full reimbursement of the gap between the existing wage tool and SWS in year 1, 75 per cent of the gap in year 2, 50 per cent in the next 6 months and 25 per cent in the final 6 months. Thereafter, ADEs will need to cover any additional costs from trading revenues.

Table 3 – DSS Wage Supplementation Arrangements¹

Percentage of gap between non-productivity based wage and the SWS wage used to calculate wage supplementation	Timeframe
100 per cent	From the date of full transition for the first 12 months
75 per cent	Second 12 months
50 per cent	Next 6 months
25 per cent	Final 6 months
No supplementation despite any other item in this table.	From 1 January 2021

The estimated impact of a potential increase in wage costs on BlueLine Laundry’s profitability is set out in the table below.

Table 4 – Modelling of BlueLine Laundry’s Potential Increase in Wages

% Increase in Wage	25%	50%	75%	100%
Hobart Laundry	90,032	180,064	270,096	360,129
Launceston Laundry	7,707	15,413	23,120	30,827
Total Est Wage Increase	97,739	195,478	293,217	390,956
Adjusted Profit Results*	656,235	558,496	460,757	363,018
DSS Assistance Year 1 100%	97,739	195,478	293,217	390,956
DSS Assistance Year 2 75%	73,304	146,609	219,913	293,217
DSS Assistance Year 3 50/25%	36,652	73,304	109,956	146,609

* Based on 2016/17 Projected Result of \$753,974

This modelling indicates that on the basis of the projected profitability in FY 2017, the full impact of an increase in supported employee wages of 75 per cent (\$293,217) would result in a reduction in profit to

¹ <https://www.dss.gov.au/disability-and-carers-programmes-services-for-people-with-disability/australian-disability-enterprises>



\$460,757. DSS transitional arrangements (see above) will in reality delay the full impact of this increase over three years.

IN FAIR WORK COMMISSION

4 YEARLY REVIEW OF MODERN AWARDS
SUPPORTED EMPLOYMENT SERVICES AWARD 2010

(AM2014/286)

Witness Statement of Robert Fraser

Background

- 1 My name is Robert Fraser.
- 2 I have been employed by Blueline Laundry Incorporated (**Blueline**) and have been involved with Blueline's Wage Assessment Tool since 1998. I currently hold the role of Business Development and Sustainability Manager. Prior to this, I was the Training Services Manager from 1998 - 2003 and the General Manager from 2003 - September 2017.
- 3 I am authorised to make this statement on behalf of Blueline.
- 4 The matters in this statement are within my own knowledge and I know them to be true. When the matters are not within my own knowledge, I have set out the source of my information or belief.

Blueline's Operations

- 5 Blueline operates a commercial laundry in Tasmania and employs a total of 81 supported employees across two sites: one in Hobart (54 supported employees) and one in Launceston (27 supported employees).
- 6 Blueline's purpose is to improve the quality of life for people with intellectual disabilities through the provision of rewarding work opportunities in the laundry and other industries. Blueline supports this purpose by having a viable commercial business. This is distinct to

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most other ADE's who are entirely dependent on government funding.

- 7 All of Blueline's supported employees have an intellectual disability. The work itself is suited to employees with an intellectual disability as it is repetitive, and employees are able to perform discrete tasks without a lot of variation.
- 8 Blueline currently employs 81 people with an intellectual disability who are integrated into a total staff of 240 people. Supported employees are given the opportunity to have interactions with people who do not have a disability which they often would not have otherwise. Blueline's workforce is culturally diverse with 17% of employees in Hobart, and 27% of employees in Launceston coming from a non-English speaking background.
- 9 Blueline has a very high retention rate of employee's due to limited opportunities for employment for people with intellectual disabilities in Tasmania and the difficulties faced by people with intellectual disabilities in the open employment market.

Wage Assessment Tool

- 10 Blueline's Wage Assessment Tool (**WAT**) is industry specific and based on the competencies required to work in a commercial laundry. Supported employees are benchmarked against a laundry employee who does not have a disability. Due to its specific nature, the WAT is simple and practical for the work that supported employees are required to perform.
- 11 The current WAT allows Blueline to measure both supported employee's productivity and the quality of the work produced. The workplace at Blueline has been designed and equipped to allow Supported Employees to work at a level that is safe and appropriate for their individual performance.
- 12 Wage Assessments are reviewed annually which provides individual employees and Blueline of a measure of their productivity and competency. Both the employees and Blueline have a common goal of increasing productivity and employees received significant training to improve their assessment.
- 13 I have read Peter Godfrey's witness statement and agree with the content of that statement.

Impact of change in WAT

- 14 In March 2017, Blueline received a report from Synergy Group Australia Pty Ltd (**Report**). The Report, amongst other things, that the financial impact of a change to the Supported Wage System (**SWS**) would amount to an increase in wages of \$390,856 per

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year, due to the average hourly rate for supported employees under the SWS being significantly higher than the WAT used by Blueline.

- 15 This would have a significant negative impact on Blueline's ongoing viability to continue to employ the 81 supported employees. Whilst Blueline would still continue to employ some supported employees, a move to the SWS would mean that we would need to focus on selecting employees with higher levels of productivity.
- 16 For example, we currently have some supported employees who have high support needs and productivity as low as 2%. It is unlikely that Blueline could continue to support employees in this category of very high support needs.
- 17 There are a number of other initiatives that Blueline would be likely to be unable to continue to support in the event of a mandatory move to the SWS, including:
- (a) **holding positions open** – Blueline currently holds positions open for supported employees who leave to gain employment in the open market for 12 months. Within the last 3 years, out of 8 employees who have left Blueline for open employment, there have been six supported employees who have had to return due to other businesses being unable to support them as well as they were supported at Blueline;
 - (b) **no regression in wages** – currently, in circumstances where an employee's productivity or competency has decreased (such as where an employee has cognitive degeneration due to aging), Blueline does not decrease their wages; and
 - (c) **social activities** – Blueline actively provides and funds social activities for all its employees. This is particularly valued by supported employees and their parents and carer's who often find work is their primary social outlet.

DATED:

21/11/2017

SIGNED



IN FAIR WORK COMMISSION

4 YEARLY REVIEW OF MODERN AWARDS
SUPPORTED EMPLOYMENT SERVICES AWARD 2010

(AM2014/286)

Witness Statement of Peter Godfrey

Background

1. My name is Peter Godfrey.
2. I hold a Bachelor of Engineering (Civil) and a Bachelor of Commerce from Melbourne University.
3. I have extensive experience in management consulting to manufacturing and capital-intensive industry and as well assisting supported employment organisations with the development of strategic business plans, business productivity and Award based wage systems. In my management consulting career, I have been extensively trained in industrial and production engineering techniques including Work Study, Organisation and Methods, and other related techniques.
4. In 1994, I assisted Bayview Laundry, now Blueline Laundry Incorporated (**Blueline**), to develop their original wage assessment tool. I am now the current External Facilitator for the annual Supported Employee assessments and maintenance of the system for Blueline.
5. The matters in this statement are within my own knowledge and I know them to be true. When the matters are not within my own knowledge, I have set out the source of my information or belief.

Blueline Wage Assessment System

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6. Blueline's Wage Assessment Tool (**WAT**) is an industry specific tool which was developed with reference to the specific tasks undertaken in a commercial laundry, and which are undertaken at Blueline.
7. The WAT allows Blueline to assess the productivity levels of a Supported Employee as a percentage of that achieved by an employee in a commercial laundry who is working:
 - (a) using the correct method and applying themselves to a variety of laundry tasks; and
 - (b) at a standard performance rate of working which is a rate of output which qualified workers will naturally achieve over the working day or shift provided they know and adhere to the specified method and provided they are motivated to apply themselves to their work.
8. The WAT assesses performance of Supported Employees in carrying out laundry tasks across the following work areas: wash room floor, roller ironers, steam tunnel, dryers, dry fold, dispatch and shute and conveyor operators (**Work Areas**).

Supported Employee Assessments

9. An employee will undergo a WAT assessment within the 13-week intake period upon commencing employment with Blueline to assess their capacity and set their wage level.
10. Ongoing Supported Employees are assessed for productivity and competency on an annual basis by a team including the Production Manager, Production Supervisor(s), Training Coordinator and myself as the External Facilitator (**Assessment Team**).
11. I provide each member of the Assessment Team with comprehensive training prior to them being involved in the Annual Assessments including giving a general overview of the WAT system, standard performance for each of the main activities within the various Work Areas across the laundry and training in "rating" across a variety of laundry tasks, as well as other non-laundry tasks.
12. Assessments are weighted and based as follows:
 - (a) 50% on the assessed productivity of an individual Supported Employee, relative to standard performance; and
 - (b) 50% on the assessed competency levels achieved by the individual Supported Employee in five core areas, being:

- (i) OH&S and Work Area Safety;
 - (ii) ability to multi-task in the given Work Area;
 - (iii) apply Quality Standards;
 - (iv) ability to work with minimal direction, ability to communicate and work with others; and
 - (v) flexibility to work across all Work Areas of the laundry.
13. Individual employees will receive a rating out of 10 on each competency which is assessed by reference to a series of questions that are targeted to provide an objective assessment of the achievement within the five major competency areas.
14. Scores are discussed including any discrepancies before preparing new Individual Employee Training Plans.
15. Where an employee has regressed in productivity or competency, their wages are not reduced. Supported Employees have the right to re-assessment if requested and can be further studied on the job if required and as appropriate.

Validity of WAT

16. Standard performance and associated production standards (benchmarks) have initially been set for a range of key production activities/tasks. These are updated with the installation of new equipment/technology (i.e. to reflect the new methods of carrying out work if applicable).
17. The annual assessments using the WAT are also checked for overall validity on an annual basis by comparisons with similar comparative commercial laundries using benchmarking techniques. This involves:
- (a) obtaining the level of productivity for a comparative commercial laundry - for example, the number of kilograms processed on average per operator per hour;
 - (b) assessing the number of required full award production personnel based on Blueline's average laundry output;
 - (c) deducting the number of actual full award production personnel at Blueline (on a day to day basis) to determine the equivalent number of full award personnel contributed by production Supported Employees; and

- (d) checking the calculated figure against the sum of the Assessments (the total for all Supported Employees reduced to take into account leave entitlements).
18. The two figures should broadly correspond if the assessments have been carried out accurately in absolute terms for each Supported Employee, and not just in relative terms between individual Supported Employees.
19. The average productivity for Supported Employees can be determined for Blueline's Supported Employees together with the productivity levels (and wage assessment) for each individual Supported Employee and the range of performance from highest to lowest.

DATED:

21/11/2017

SIGNED:

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