

6 April, 2017

Our Voice Australia Inc
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Fair Work Commission
William Street, Sydney

Attention DP Booth

Without Prejudice

SUMMARY OF MATTERS FOR CONSIDERATION IN AM2014/286

Further to our Response to the Exposure Draft M A000103 – AM2014/286 – submitted on 29 August, 2016 we summarise the issues in our previous submission as follows:-

Part 1 (5)	Effect of variations made by the Fair Work Commission
Part 4 (15 & 16)	Wages & Allowance
Part 6(6.4 a-d & 6.6)	Award Flexibility for individual arrangements
Part 7 (26,27 & 28)	Consultation and Dispute Resolution
Schedule D	The Supported Wage System

We thank the Commission for including families/parent and carers of workers with moderate to severe intellectual disability in the conciliation process of the proposed variations to the Award, and other parties thereto. Whilst there is a variation of opinion on what, in the future, might be best for Australia's ADE's – and their workers – all parties worked within the agreed shared interests of

- (i) a fair, equitable and non-discriminatory wage outcome for employees in supported employment (ADE's),
- (ii) continued employment opportunities for these employees
- (iii) sustainable employment opportunities in viable ADE's and
- (iv) security and confidence for employees, parents and carers for the future

As a party to the conciliation process with the proposed variations to the Supported Wage System, we support the inclusion of the trialled Modified Supported Wage System – as a voluntary option for ADE's – within the Modernised Award- provided issues around bench-marking, quality assessment, validation, grievance resolution, and internal data collection are addressed. We are reasonably comfortable that all the parties have a commitment to these objectives.

We support the Commonwealth's draft amendments to facilitate the inclusion of the MSWS within the Award - but have raised our concerns about any presumption (D1.4.1(a) that the employer has an option about whether or not they collect workplace data (i.e. the employee profile) to complement the independent assessment of productivity to determine wages due. Whilst we understand the need to reduce red tape and extraneous administrative processes for any business – we would expect that all parties should be able to work, collaboratively, to produce a pro-forma and process that protects the privacy of the worker but facilitates a fair assessment of productivity. We would expect such internal data to be

relevant, consistent and protect both the worker and the enterprise should the wage be challenged in any dispute resolution

As we all move into the NDIS landscape we seek an industrial outcome that complements the four goals of eligible people with a disability when they access the NDIS supports. Outcomes which could destroy opportunities in contravention of those goals should be enunciated and understood within the boundaries of industrial legislation and social policy

A continuum of employment opportunities – which includes viable ADE's - meets all of the objectives of the NDIS –i.e. allows eligible people with a disability to:-

- a) Pursue their goals
- b) Increase their independence
- c) Increase social and economic participation and
- d) Develop their capacity to actively take part in the community

The Modernised Supported Wage System is the nexus to ensure that our workers do not lose their opportunity for employment of their choice – be that in a supported or open employment environment . This opportunity to work provides them with additional income to supplement their disability pension entitlements , increases social and economic participation and respects their most basic human right – that of choice.

The issue of wage equality is very much intertwined with social policy – but AM 2014/286 must deal with the industrial issues to ensure that social policy can accommodate any of the future outcomes

We summarise those matters as follows:-

- (1) We do not agree with the stated objective of the Unions – and those workers represented by AED Legal – to remove – in ongoing industrial processes - any industrially approved tool which contains a competency component. This would, effectively, leave the Supported Wage System and (now) the Modified Supported Wage System with its productivity only basis, as the only legally approved industrial tool for Australia's ADE's.
- (2) Our ADE's are community/business based enterprises established by communities throughout Australia. They are a vital social thread,with a sense of community ownership. Their existence could be threatened if the insistence of a productivity only tool means that the personal percentile production capacity of individuals becomes the only criteria that allows entry into an ADE
- (3) It is an established fact – as confirmed in the recent demonstration – that the productivity capacity of some of our family members currently employed in our ADE's – could not be improved – even if higher personal supports were provided by the employer.
- (4) There is a world of difference – both socially and financially – between open employment – and supported employment (ADE's). Our ADE's are "*price takers*" whereas open employment is a "*price maker*"

- (5) Whilst we would all support the concept that a wage assessment should not be based on the capacity of the ADE to pay it – we must accept that both unemployment – and under employment – - for able-bodied Australians - is now a national problem. A productivity only tool is based on the capacity of the individual - to provide an output that covers their own and the enterprise's expenses. From the ADE's perspective – as with any business - Output = profit=surplus=survival.
- (6) The existing Award legislation provides a blanket "*People with a Disability*" terminology. But, our constituency – as do the majority of workers in Australia's ADE's – have an intellectual disability. We have already covered, in our earlier submission the assumption –within the current Award - that all of these workers have family carers, guardians or advocates. They don't . Many do not have a classification of "mild" intellectual disability- so productive output, for some, on a continuing daily basis, is problematic. That's why an ADE is their choice of employment option.

ADE's exist as business/social/community based enterprises. They were established, historically, by our constituency under a mandate from Australian communities – be that in rural, regional, remote, urban or metropolitan Australia. They provide our workers with extra income to supplement their pensions, with the dignity of work, social activities and community inclusion. The loss of that employment opportunity should the ADE be rendered unviable by large wage increases, creates huge social and financial issues for our disabled workers, their families and carers – and the communities in which those displaced workers live.

We appreciate the ongoing opportunity to advocate on their behalf in the Modernisation of the Award, to ensure a fair, equitable and non-discriminatory wage for our workers. That wage and employment opportunity, provides them with social and economic participation – and their basic human right of choice is respected - and not removed.

Sincerely

Mary Walsh OAM, CPA, AIFS JP(Qual)

Parent/Advocate/Regional Representative

Our Voice Australia Inc.

(for people with moderate to severe intellectual disability and complex needs)