



There are more than 700,000 Australians with intellectual disability and/or complex and 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*

FAIR WORK COMMISSION AM2014/286

Four yearly review of modern awards

Supported Employment Services Award

SUBMISSION IN REPLY

Filed on behalf of Our Voice Australia

Filed by Mary Walsh
Address: PO Box 133, Drummoyne NSW 1470
Phone: (07) 4151 4178 – 0418 887 976
Email: marywalsh6@bigpond.com

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Introduction:

1. Our Voice Australia has been a party in conciliation with all stakeholders since the inception of AM2013/30 – now extended to the current proceedings AM2014/286.
2. Our family members who are employed in Australia’s Disability Enterprises (ADE’s) are not represented by nationally funded advocacy services – in these proceedings- or in matters of Government policy. Our Voice Australia is **their** voice.
3. We have lodged submissions in AM2014/286 to ensure that the Modern Award continues to recognise the role of “nominees” (generally family carers) - and the duality of social and employment focus that constitutes the core function of ADE’s.

We respond to the submissions of the HSU and the AED Legal Centre as follows:

4. We object – for reasons previously stated - to variations as proposed in the Draft Determination by the AED Legal Centre – and supported by the Health Services Union – for the Award to provide only one method of wage assessment – i.e. the productivity based Supported Wage System (SWS)
5. We object to *“Issues with evidence”* as raised by HSU at [20-24] in their submission dated 21 November, 2017 – and their proposition that witness statements as provided by *“managers about the attitudes of their employees”* could be in contravention of *Dardanup [2-11] FWAFB 3847 –[29]- [30]*.

As such, they contend – the following statements could (should) be interpreted as *“hearsay”*, because they cannot properly be tested by cross-examination and employees might have a lack of willingness to engage.

We support these witness statements from these employers :-
“if our supported employees did not attend work, they would not have much to do, and many would be home-bound and rely on their families more”.
 {Centacare [68]; and

“The interaction between employees, DSW’s and other staff creates a positive environment with a “can-do” attitude and it is this sense of achievement and pride that boosts our supported employees’ self - esteem and feeling of belonging” – (Asteria Business Services [55])

because - for family carers/advocates this is not *“hear-say”*. It is fact. We live it.

The employees of *Dardanup* were not intellectually disabled. This issue is not about *“right- of entry”* – but about the human *right of choice* – in this case the choice of a workplace that provides the varying levels of support they need for their economic participation in our society.

It is not about a group of employees who aren’t prepared to be cross-examined or reluctant to engage. It is about a group of employees who, for the most part, lack the capacity to do either due to the nature of their disability.

To suggest that the statements of those who know them best should be treated with “*caution*” or be considered “*hearsay*” robs these workers of their human right to provide input into a matter which will determine the remainder of their lives- and probably that of their families – upon whom “*they would need to rely more*”

6. The AED Legal Centre at A [2-7] – in their submission dated 21 November, 2017 oppose the proposed changes to the definition of :-

5 “*supported employment service*”. The suggested change now adds “– **for which a majority of their employees** (emphasis added) *meet the definition of employee with a disability as defined in this Award*”.

We support this change because it opens the door to further inclusion of able-bodied workers into the supported employment workplace.

This inclusive innovation within the new NDIS environment would need to ensure the movement of the medical model of disability to the social model of disability retains all the necessary supports for the core cohort of supported employment – and the NDIS. That core cohort is the current ADE workforce- and those who might wish to choose this option- as they exit formal education. Alternatively existing or future workers might wish to balance it with ongoing education.

This inclusive focus can only be retained if the Modern Award recognises the need to quantify who should always be “*the majority*”.

Further this proposal is:

- (i) consistent with the 8 Guiding Principles of the Convention on the Rights of Persons with Disabilities (the CRPD) and its focus on inclusion.
- (ii) is a step in the right direction to reducing the “*segregation*” so constantly criticised by AED Legal Centre and the Disabled Persons Organisations of Australia (DPO), and
- (iii) consistent with the 2017 theme recently ratified by the United Nations Convention on the Rights of Persons with Disabilities (UNCRDP) at the International Day of Persons with Disabilities on the 3rd. December, 2017 . The ratified theme is “*leave no one behind*” and is based on the transformative changes envisaged in the 2030 Agenda for Sustainable Development. This global framework aims to strengthen the resilience of people with a disability by focusing on many societal issues, including sustainable economic growth through employment

and

6 “*employee with a disability* “- is proposed to include “*is eligible for support under the NDIS*”

We also support this change because existing departmental structures and possibly, existing legislation will change when the NDIS is fully implemented.

There is broad agreement that the funding arrangements, eligibility and access criteria MAY change when the NDIS is fully rolled out, so why would there not be a pro-active approach, industrially, to accommodate that future restructuring?

AED Legal Centre and the DPOs are, quite rightly, now lobbying heavily to ensure that the NSW State Government doesn't de-fund disability advocacy. New South Wales appears to have abrogated its financial and social responsibility with respect to disability advocacy, and sees devolvement of that responsibility to the Commonwealth under the NDIS. We believe other states will follow. Advocacy is a critical service for people with a disability, especially if they have limited capacity for communication and self-advocacy as do the members of Our Voice Australia.

People with a disability, and their family carers, are now living that insecurity. Why would AED Legal Centre not work with other stakeholders to build in industrial security? By supporting the proposed change to include NDIS eligibility support in the domain of supported employment and the Modern Award they safeguard that additional security for future employment options .

On behalf of our family carers, and their disabled ADE workers, we submit these responses to the submissions referred to herein.

Signed

Mary Walsh – Regional Co-ordinator

