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Sent: Monday, 1 August 2022 5:09 PM
To: Chambers - Hatcher VP <Chambers.Hatcher.VP@fwc.gov.au>
Cc: aedlegal@aed.org.au
Subject: LEX 30407 - AM 2014/286 - Review of Supported Employment Services Award 2010 - F51 - Application for an order requiring a person to attend before the Commission – AED Legal Centre - NDIA - Gerri Mitradidha [SEC=OFFICIAL]

AM 2014/286 - Review of Supported Employment Services Award 2010 - F51 - Application for an order requiring a person to attend before the Commission – AED Legal Centre - NDIA - Gerri Mitra

Good afternoon Vice President Hatcher,

The National Disability Insurance Agency (**Agency**) received the F51 Application for an order requiring a person to attend before the Commission on 28 July 2022, which applies for an order for Gerri Mitra to appear before the Commission. We note that the time to provide submissions opposing the AED Legal Centre's application was extended to 5.00pm, 2 August 2022.

Section 67G

Please note pursuant to section 67G of the *National Disability Insurance Scheme Act 2013* (C'th) (**NDIS Act**), the Agency cannot be compelled to provide NDIS documents or information where it is not for the purposes of the NDIS Act or the *Royal Commissions Act 1902* (C'th).

Section 67G of the NDIS Act provides that:

A person must not, except for the purposes of this Act or the Royal Commissions Act 1902, be required:

*(a) to produce any document in his or her possession because of the performance or exercise of his or her duties, functions or powers under this Act; or
(b) to disclose any matter or thing of which he or she had notice because of the performance or exercise of such duties, functions or powers;*

to a court, tribunal, authority or person that has power to require the production of documents or the answering of questions.

The Agency may disclose information under alternative means which is discussed in further detail below.

Alternative means of disclosure

The Agency may consider disclosing NDIS information, including protected Agency information, on alternative grounds.

The Agency is authorised to disclose protected Agency information as follows:

1. the person to whom the information relates (or their authorised representative) expressly or impliedly consents to the release of the information (section 60(2)(d)(iii) of the NDIS Act; likely to be processed under the *Privacy Act 1988*);

2. the Agency believes on reasonable grounds that the disclosure of the information is necessary to prevent or lessen a serious threat to an individual's life, health or safety (section 60(2)(e) of the NDIS Act);
3. the Chief Executive Officer (CEO) of the Agency (or his delegate) is satisfied on reasonable grounds that it is in the 'public interest' (section 66(1)(a) of the NDIS Act). Further guidance on the 'public interest' is provided in Part 4 of the *National Disability Insurance Scheme (Protection and Disclosure of Information) Rules 2013* (Cth) and Operational Guideline – Information Handling – Disclosing protected information in other circumstances (located at: <https://www.ndis.gov.au/about-us/operational-guidelines/information-handling-operational-guideline/information-handling-operational-guideline-overview>); or
4. to a chief executive of a State or Territory Department (or to the head of an authority of a State or Territory) for the purposes of that Department or authority (section 66(1)(b)(v) of the NDIS Act). Guidance on the disclosure of information under this provision is provided in Part 5 of the *National Disability Insurance Scheme (Protection and Disclosure of Information) Rules 2013* (Cth) and Operational Guideline – Information Handling – Disclosing protected information in other circumstances (located at: <https://www.ndis.gov.au/about-us/operational-guidelines/information-handling-operational-guideline/information-handling-operational-guideline-overview>).

Accordingly, we have advised AED Legal Centre of alternative means of obtaining information from the Agency and they are copied into this email.

Kind regards,

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Delivered by the
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Insurance Agency

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