

Greenacres Disability Services

Submissions in Response to Full Bench Statements of 16th April and 11 September 2018

In AM2014/286

A New National Supported Employee Wage Assessment System

1. Greenacres supports in general the preliminary views of the Full Bench (the Bench) in the Statement it issued on the 16th of April 2018.
2. Greenacres contends that based on the evidence, submissions and information gathered during the inspections, it was clearly open to the Bench to find that the SWS (even in its modified form) was not an appropriate wage assessment mechanism for supported employees in a Disability Enterprise setting.
3. Greenacres contends that AED Legal and others have been given ample opportunity to have the Commission inspect either Disability Enterprises or indeed open employment settings where the SWS was operating and failed to provide any sites or organisations to view.
4. AED and others were also given ample opportunity to provide evidence from employers, employees (both support staff and supported employees) to support their position but failed to produce any meaningful evidence.
5. Greenacres agrees with the views of the Bench that it is appropriate to have one national system of wage assessment for the sector and that the Commonwealth needs to resource and facilitate its implementation, particularly if the wage assessment system is of the kind put forward by the Bench in its 16th of April Statement.

6. Whilst we believe a classification structure approach as put forward by ABL during the case would have been the simplest and most appropriate way forward, Greenacres nonetheless agrees with the approach put forward by the Bench in its 16th of April Statement and is prepared to work positively to implement it, subject to the Commonwealth providing appropriate support.
7. Greenacres supports the concept of objectively determining the size of a job (job size) first, followed by a productive output assessment.
8. Arriving at the exact methodology for job sizing is complex without some clear and decisive parameters being set by the Bench.
9. **Appendix A** is at least one wage assessment option proposal which Greenacres believes is consistent with the Bench's Statement of the 16 April 2018 for the Bench to consider. **Appendix A** contains both **commentary** and a **draft wage assessment procedure**. We would emphasise that the Commonwealth would need to allocate considerable resources to further develop methodology, documentation and training for Disability Enterprises and independent assessors.

Implementation Issues

10. Greenacres submits that the following steps should be taken by the Bench to finalise the Award Review process and in particular the wage assessment matter for supported employees.

Step 1- The Full Decision needs to be made. The sooner a Decision can be made the better. Uncertainty about the future viability of the sector needs to come to a head one way or the other. The full Decision should also decide on all other variations put forward during the case, including the Rights at Work clause for Supported Employees and Superannuation Contributions. In relation to Superannuation, Greenacres contends any increase should be phased in.

Step 2 - Setting Clear Parameters for Wage assessment.

We respectfully submit that the Full Bench should set very clear and decisive parameters around the wage assessment system in its final Decision (if not deciding precisely how it would work). Having set parameters, the Bench should consider facilitating a set of Conferences between the interested parties to finalise any adjustments to the wage assessment proposal it has decided upon. These discussions are to inform the Commission only (not to debate the Bench's final decision has made), and we submit that any adjustments should be finalised within 2 months.

Step 3 – Greenacres wage assessment proposal requires Job Statements

We contend that because Disability enterprises carry out such a diverse range of work (and in many cases in the one location) it will be necessary if we are to have consistency in the approach to **job sizing** as referred to by the Bench in its Statement of 16 April 2018 at paragraph 15 (9)a that a Job Statements guide needs to be developed for the purposes of Job sizing.

A **working party** may need to be established post the trial period of a new assessment system to create simplified job statements. Greenacres believes the number of job statements required should be no more than 100 across Grades 2 and 3 of the award. The guide should provide the flexibility for independent assessors and Disability Enterprises to create or amend the job statements to better fit the positions that might exist in an Enterprise, but might not otherwise be catered for in the Guide.

Step 4 - Testing of the wage assessment proposal.

The Commonwealth should facilitate the testing of the proposed new wage assessment system including financial implications for both supported employees and Disability Enterprises, with a Report coming back to the Bench within 3 months.

Step 5 – Government commitment to funding and phasing in

Following any adjustments that may need to be made to the proposed wage assessment system by the Bench following step 4 above, the Commonwealth Government should report to the Bench within 2 months on its intention or otherwise to fund any increased costs associated with the new system including wage increases. Further the Government needs to spell out how much time it will take

to get accredited independent assessors in place and how long then it would take for 20,000 supported employees to be assessed. The answers to these questions should determine the length of time it would take to phase in the new wage assessment system. In general Greenacres would say the full system should be implemented within 24 to 36 months or earlier where possible.

Step 6 - Phasing out of old wage assessment tools

The phasing out of existing tools should occur as organisations adopt the new wage assessment system. This will be determined by Step 5.

Step 7- Employer preliminary actions

Employers should begin their own assessment of supported employees once the new wage assessment system is determined and implementation packs are sent out by the Commonwealth. This will be necessary to have employer data in case of any disputes about results provided by independent assessors arise and any evidence that may need to be provided for any appeal against an assessment. Once off payments will need to be provided by the Commonwealth to assist Disability enterprises do their first internal wage assessment.

Revised Classification Structures

11. Greenacres supports the preliminary views of the Bench that the classification structure in the SES award needs to be updated. We believe that updating the classifications (but particularly) Grades 2 and 3 of the award will be made easier if the Bench adopts the wage assessment proposal put forward by Greenacres, which envisages establishing a job statements guide book which would encompass most of the work carried out by disability enterprises around the country.
12. Whilst one could imagine the classification structures being split between basic duties in Grade 2 and more complex duties in Grade 3, the classifications in themselves would be extremely onerous if they tried to emulate what would otherwise be duty statements employees (able bodied) would normally have when they are employed with an organisation.

13. Greenacres contends that any new classification structure should have regard for the broad range of work carried out by disability enterprises and possibly have some reference back to the Job Statements Guide as indicative duties that may apply at Grades 2 and 3 of the award.

Non - Work Activities

14. As referred to in the Full Bench's 16th of April 2018 Statement, Greenacres contends that an Award variation that makes clear that the employer does not need to pay employees for activities which are non - work related or entitled should be explicit in the award.

Non work related activity can include:

- Cooking Classes
- Art Classes
- Mental Health Classes
- Fitness Activity

15. Since the introduction of the NDIS more and more supported employees are wanting some of these activities in work time. Whilst funding can be received to provide such activity these supports take supported employees away from workplace production.

16. Many Disability Enterprises currently provide these activities in paid time. A simple clause as follows should be provided for in the award particularly to assist in small part offsetting the cost of wage increases associated with any new wage assessment tool.

“Non - productive time

(a) Where employers provide vocational training to supported employees as part of up-skilling which takes place in a non-productive setting such training shall be paid for. Such training might including literacy and numeracy, WHS training, specific training in working with teams etc.

(b) Where the employer provides non-vocational activities such as cooking classes, mental health programs, life skills training, social activities, such time shall not be counted as time worked subject to:

The supported employee being advised of the deduction of time and wanting to still undertake such activities and the activity is more than 15 minutes in duration.



Chris Christodoulou
Chief Executive Officer
Greenacres Disability Services

Appendix A

New Wage Assessment System

Job statements, Job sizing and Productive Output Assessment

General Comments

The following is a general explanation with respect to the proposed new wage assessment system put forward by Greenacres which is found in **Attachment 1**. We believe it is generally consistent with the Bench's approach in its Statement of 16th of April 2018.

The most complex part of the proposal is how to determine the size of a job, as contemplated in the Bench's Statement of 16 April. This could become complex and overwhelming. It is for this reason Greenacres is putting forward an option which we believe is simple in its approach as long as the benchmark for measuring a supported employees work against the duties of a worker without a disability is simplified.

The Greenacres proposal relies heavily on there being a set of **job statements developed across the range of different types of work** that Disability enterprises carry out. We envisage some 100 or so job statements that might ordinarily apply to workers without disabilities in classification Grades 2 and 3 of the SES Award.

We believe the development of these job statements is critical to obtaining (as far as is practicable) a consistent application of the proposed wage assessment system.

We believe that these job statements could be developed by **an industry working party** in conjunction with the Commission in relatively short time so long as there is an agreed template and the Commonwealth facilitates and resources the work.

The proposal put forward by Greenacres in terms of our Job Statement template is simply an example of what a packing worker might be expected to do and how you might break up the duties to tasks to allow for job sizing.

Each job statement in our proposal would contain four to six primary duties and each of those primary duties would be broken down into meaningful job tasks. This would make it easier to size the job.

To further simplify the process each job statement would not have more than 20 tasks and each task would be worth 5% in the job size assessment process. Whilst there is a strong argument about weighting tasks according to their complexity this in our view would generate quite a deal of debate and is really not the point of job sizing, which is more about how much of a whole job does the supported employee carry out.

In our view the work value considerations are dealt with as between the work carried out in different Grades of the award, and our proposal deals with this further on.

Sizing a Job

In order to job size the supported employees' position, it is necessary to determine which duties and in turn tasks a supported employee carries out against a job statement which carries all the duties and tasks a person without a disability would be expected to do from time to time in their job. The assessment of which tasks a supported employee regularly carries out of a job statement can be plotted against the job statement using the matrix similar to that found in **Attachment 1**.

All supported employees have ongoing support needs which can vary day to day depending on the work they do and their individual skills and behaviours. Often the level of support to carry out a task safely and to a quality standard is a good indicator as to whether the employer would assign the supported employee the task on an ongoing basis.

For the purposes of the Greenacres proposal found in **Attachment 1** we have used the following support level definitions to determine how much of a whole job a supported employee is carrying out.

High Support- a supported employee does not carry on this task, as to do so would require one-on-one support. A supported employee would not be able to manage the task productively or safely without continuous one on one support and reminders on a daily basis.

In training Support- a supported employee does carry out this task as part of skill development with support. It generally is not the work they consistently do as they have not yet learned to do the task safely and or productively. The aim is for the supported employee to reach a level of skill where their productive output would exceed 25% and where the supported employee would be able to carry on the task in a safe manner without continuous one on one support.

General Support - a supported employee can carry out this task safely on an ongoing basis with a level of productive output greater than 25% where one on one support is not necessary.

One on one support means a supervisor or trainer having to demonstrate how to do the work and be with the employee whilst they are carrying out the work to ensure they are doing it safely and to a quality standard. The support worker would not be further than 3 metres away from the supported employee whilst the supported employee is endeavouring to undertake the work.

Support definitions important for auditing purposes

By having the above definitions it would allow for audits to take place to ensure employers were not deliberately assessing a task as high support or in training in order to avoid a higher job sizing outcome position.

Productive Output Assessment

Once the job is sized an independent assessment will be made of productivity output related to the tasks the employee would generally spend most of their time on. Generally the output assessment should be based the 3 tasks that the supported employee spends most of their time on. Because supported employees can change tasks quite often it is recommended that the productive output assessment be simplified and the output simply be an average of the three tasks selected.

Validation of job sizing

Whilst the SWS assessor is assessing a supported employees productive output they might also pick 2 tasks in Job statement (one in **High** and one in **Training**) to audit to ensure the employer is correctly job sizing and hasn't undersized the job according to the support definitions.

Sizing a Job Followed by a Productive Output Assessment – What Should be the Calculating Formula?

If one was to look at the job size score in **Attachment 1** (by way of example) it comes out at 40%. Presuming the productive output assessment of the supported employee is 50% the overall wage for such an employee would be 20%. This example fits nicely into the Bench's suggestion of 20% increments contained in the Bench's Statement of 16 April at clause 15- 9(a).

In our view the job sizing increments should be 10% and the job sizing result should be rounded up to the nearest highest 10% increment. The productive output assessment and ultimately the total assessed wage should be rounded up to the nearest highest 5%. This in our view is fair for both supported employees and Disability Enterprises although it will be more advantageous to supported employees.

See the following examples

- Job Size Assessment (55%) - 60%
- Productive output (43%)- 45%
- **Overall Wage (27) -30%**

- Job Size (25%) -30%
 - Productive output (97 %) 100%
 - **Overall Wage 30%**
-
- Job Size 60%
 - Productive output 40%
 - **Overall Wage (24 %) 25%**
-
- Job Size (65)-70%
 - Productive output (58) -60%
 - **Overall Wage (42%) - 45%**
-
- Job Size (25%) 30%
 - Productive output 30%
 - **Overall Wage (9%) 12.5% (agreed minimum)**
-
- Job Size (35%)-40%
 - Productive output (33) 40%
 - **Overall Wage (16%) 20%**

By taking the above rounding up approach with both the job sizing at 10% increments and productive output assessment rounding up to nearest 5% benefits the supported employee and minimises the potential for disputes.

Protecting Grade 3 Supported Employees Against Skill Bias Associated with Productive Output Assessment.

If a supported employees has a job size done against a **Grade 3** position there is the possibility because of the more complex nature of the work that such supported employees may be paid less than supported employees in Grade 2 by virtue of the fact that their productive output might be slower.

In general the more of a whole job the supported employee can do and the more complex the tasks the more valuable they are to the organisation having regard to work value.

Accordingly we propose that no Grade 3 supported employee should have an overall assessed wage of less than 40% after both job sizing and the productive output assessment has taken place.

ATTACHMENT 1

National Supported Employee Wage Assessment System

Contents

1. Introduction
2. Definitions
3. Wage Assessment Procedure
4. How to Job Size A Supported Employee Position
5. Productive Output Assessment
6. Calculation Formula for Assessed Wages
7. Appeals and or Grievances
8. Wage Assessment Reviews

1. Introduction

The national supported employee wage assessment system is designed to evaluate the scope of the supported employees position (Job Sizing) as against a worker without a disability and to also measure the output production of the supported employee. The combination of job sizing and the productive output of the supported employee shall determine their wage as against classification Grades 2 or 3 of the SES Award.

2. Definitions

The following definitions apply in relation to the national supported employee wage assessment system.

Job Sizing the range of tasks associated with a job that a supported employee carries out by comparison to an employee without a disability.

Benchmark: A predetermined rate of output of a good or service compliant with customer specifications and/or quality standards expected to be performed by a worker without a disability.

Job Statement A document identifying a range of duties and tasks (that constitutes the job) that a worker without a disability would be required to perform from time to time commensurate with their classification level under the SES award.

Job: A paid position performing duties/tasks as outlined in the Job Statement commensurate with classification skill level definitions.

Duty: A primary element of a job.

Task: A work activity which forms part of carrying out a duty.

Calculating Formula: The formula used to finally determine a supported employees assessed wage having regard to job sizing, output production, rounding and safeguard factors.

Output production: The rate of output of a good or service compliant with customer specifications and/or quality standards within a particular time period. Also referred to as “**productive output**”.

Skill: The ability of an employee to perform a particular duty and or task to the required quality standard.

Supervision: Observing and organising the duties and or tasks a worker performs as directed with intervention occurring as needed.

High Support- a supported employee does not carry on this task, as to do so would require one-on-one hands on support on continuous basis. A supported employee would not be able to manage the task productively or safely without continuous one on one support.

In training Support- a supported employee does carry out this task as part of skill development with support. It generally is not the work they consistently do, as they have not yet learned to do the task safely and or productively. The aim is for the supported employee to reach a level of skill where their productive output would exceed 25% and where supported employee would be able to carry on the task in a safe manner without continuous one on one support.

General Support - a supported employee can carry out this task safely on an ongoing basis with a level of productive output greater than 25% where one on one support is not necessary.

One on one support means a supervisor or trainer having to demonstrate how to do the work on a daily basis and would need to be with the supported employee whilst they are carrying out the work to ensure they are doing it safely and to a quality standard. The support worker would not be further than 3 metres away from the supported employee whilst the supported employee is endeavouring to undertake the work.

3. Wage Assessment Procedure

The following steps shall be taken to assess the wage level of supported employees

Step 1: Identify the primary duties and tasks that the supported employee is doing and /or capable of doing. For new supported employees identifying the duties and or tasks will take place after the first three months of training and assessment and in the lead up to an independent assessment being made of the supported employee.

Step 2: Allocate a Job Statement from the Commonwealth Job Statement Guide Book to the supported employee which best fits the type of work the supported employee is carrying out or in training for.

Step 3: Employers are to provide the independent assessor their own internal job sizing assessment using a Job Statement taken from the Guide Book. Where the supported employee might be carrying out work across different Job Statements on a regular basis, or where a Job statement needs to be amended to better fit the work carried out by the supported employee an agreement shall be reached between the assessor and Disability Enterprise on a relevant amended Job Statement.

Step 4: The independent assessor completes the job sizing assessment and audit following instructions given to the supported employee.

Step 5: The independent assessor then completes a productive output assessment of the 3 duties and or tasks that the supported employee spends most of their time on against the benchmark. See Calculating Formula

Step 6: Using the job sizing assessment and output data the calculation is made as to the appropriate assessed wage level for the supported employee having regard to the calculating formula.

4. How to Job Size A Supported Employee Position

To job size the supported employees position the assessor shall be provided by the employer the template job statement (**see Example Job Statement below**) where the employer has already internally assessed the supported employee. The assessor shall observe the supported employee carrying out the duties and/or tasks that have been determined by the employer are low support.

The assessor shall then request the employer to (as practicably as possible) put the supported employee in a position where they may be requested by the assessor to carry out a duty and/or task that is deemed to be high support in which it is expected supported employee would not be able to undertake the task without a high level of support. The assessor may pick any of up to 2 tasks for auditing purposes.

The assessor shall then request the employer to place the supported employee in a position where they can carry out tasks that they are in training for so as to determine whether such tasks could be deemed to be low support tasks that should be counted for job sizing.

Following the above observations, audit testing and discussions with the employer including any historical data the employer has to offer the assessor shall make a job sizing determination.

Job Statement - Packing Line Worker - Grade 2

Primary Duty	Task	Support Requirements		
		High (Task not carried out)	In Training (learning to carry out task)	General (Tasks carried out)
Setup	Liaise with supervisor to confirm setup requirements	x		
	Accurately interpret Job Sheet to confirm customer specification	x		
	Inspect work area and identify/rectify hazards		x	
	Under instruction - Setup workstations to suit job packing steps		x	
	Check job components for quantity/type/quality	x		
	Under instruction - move job components to correct work station			x
	Identify safe working practices and any PPE for job	x		
Pack	Count correct quantity of item			x
	Place item into box in correct position and orientation			x
	Identify item shortages		x	
	Collect more product to replenish line		x	
Quality	Check packed items visually or by weight			x
	Identify and correct errors			x
	Quarantine non-conforming items and report to supervisor		x	

Finish	Close, seal, or tape carton			X
	Pack carton into shipper and seal			X
	Pack shipper onto pallet			X
	Prepare Pallet label	X		
	Shrink-wrap pallet	X		
	Liaise with warehouse to move pallet	X		

Total tasks	20
Percent per task for low support	5%
Will	
Total tasks which are low support that the supported employee carries out	8
Total Job Size score	40%

5. Productive Output Assessment

An output production assessment shall be made on the three tasks that the supported employee would generally spend most of their time on.

The supported employees output will be measured as against a benchmark which will be agreed to between the employer and the assessor. Each output assessment for each task will be observed and assessed for a period of 1 hour.

The following formula will be used to determine the averaged output percentage rate: Please note the final productive output rate must be rounded up to 5 % increments.

	Benchmark Rate of Production / Hour	Actual Rate of Production / Hour	Actual % of Benchmark	Actual % of Benchmark Rounded up to nearest 5%
Task 1	300	65	22%	35%
Task 2	350	312	89%	90%
Task 3	400	265	66%	70%
Average	350	214	59%	60%

The expected rate of production per hour for a task.

Actual rate of production per hour for a task.

Actual Rate of Production as a Percentage of the Benchmark rate of Production
Actual Rate of Production divided by Benchmark Rate of Production multiplied by 100.

Average expected rate of production per hour for a collection of tasks.

Average Benchmark Rate of production / Hour = (Task 1 Benchmark + Task 2 Benchmark + Task 3 Benchmark) divided by the number of tasks.

Actual Average expected rate of production per hour for a collection of tasks.

Average Actual Rate of Production / Hour = (Task 1 Actual Rate + Task 2 Actual Rate + Task 3 Actual Rate) divided by the number of tasks.

Average Actual rate of production as a percentage of the average benchmark rate of production

Average Actual % of Benchmark = (Task 1 % of benchmark + Task 2 % Benchmark + Task 3 % Benchmark) divided by the number of tasks.

6. Calculation Formula for Assessed Wages

Once the average production output has been assessed the following formula shall apply.

Job Size % (Calculated to the highest 10% increment) **multiplied by the percentage of the production output** (calculated at highest 5 % increment) = **Assessed wage rounded to highest 5% increment.**

Notwithstanding the above the total assessed wage for supported employees who carry out most of their time on Grade 3 Duties/tasks shall not be less than 40%

Appeals and or Grievances

With thousands of assessments taking place the scope for appeals and/or grievances is potentially high. In the case of a supported employee if they do not agree with the outcome of their assessment they should take the matter up via the grievance procedure set out in the SES award. Ultimately the matter should be determined by the Fair Work Commission based on evidence provided by the assessor, the Disability enterprise and any information from the supported employee and/or their representative.

Where the Disability enterprise disagrees with the outcome of the assessment it shall inform the independent assessor, the supported employee and/or their representative and they shall also have the right to refer the matter to the Fair Work Commission for resolution.

7. Wage Assessment Reviews and Wage Increases

Wage assessments should occur every four years or sooner if requested by the supported employee, so long as such a request is not more often than 12 monthly. The Commonwealth shall make available assessors at no cost for disability enterprises to use.

Once a wage assessment has been completed and agreed the supported employee shall receive their new level of wage (where appropriate) in the next full pay period.

Where the Commonwealth is unable to provide qualified assessors or where there is likely to be a significant delay in having an assessment done the following shall apply:

1. Where there is a delay in assessment taking place the supported employee shall have their wage increase backdated to when their wage increase would have otherwise applied.

2. Where no qualified assessors are available within two months of when an assessment was due the Disability enterprise shall carry out their own assessment as per this the wage assessment system and provide the results to the supported employee. Should the supported employee reject the assessment then they shall have the right to appeal the assessment as per the grievance procedure.