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16 November 2017

By Email: Chambers.Booth.dp@fwc.gov.au

Deputy President Booth
Fair Work Commission
10/80 William Street
EAST SYDNEY NSW 2011

Dear Deputy President Booth

**Re: AM2014/286 – Supported Employment Services Award 2010
Request to release ARTD Report**

On 27 October 2017, the parties (AED Legal Centre, Inclusion Australia, People with Disability Australia, the Health Services Union, and United Voice) received Correspondence from DP Booth's Chambers asking if any party had an objection to the public release of the ARTD report on the evaluation of the SWS modifications (as requested by NDS). Any objections were to be lodged by close of business 2 November 2017.

On 2 November 2017, AED on behalf of the other parties replied, stating that they would not agree to the release of the ARTD Report on the evaluation of the SWS modifications unless all documents as outlined in our letter, were also released.

On 3 November 2017, your Chambers requested a response to the above proposition. On 6 November 2017, Mr Sina Zevari of Australian Business Lawyers (ABL) responded with what we believed to be an agreeance with our position. They stated that all three (3) reports referred to in our letter, including any information, relating to the trials and demonstrations, with the redaction of the parties' details. It was further stated that NDS would file redacted versions of the ARTD Report and trial and demonstration reports as part of its materials in reply on or before 4pm on 21 November 2017 (if the extension to file was granted).


We dispute the email sent by ABL on 14 November 2017, claiming that we had not responded to the request for the release of the ARTD report. It is very clear from our email dated 2 November 2017, that if all reports and accompanying documents were to be released, we would consent. Unless we have misinterpreted Mr Zevari's response, we believe he has agreed with our proposal. We therefore do not consider there was a need to respond further.

The Commonwealth, who has ownership over the documents that AED and ABL have agreed to publicly release, is yet to respond to the issue. If the Commission agrees to release all three (3) reports, assessment data, and ADE survey, produced during the conference proceedings of AM2013/30, it is appropriate that the Commonwealth publish these reports with appropriate protections of employees and individuals who participated with the understanding that this was being conducted under the terms of "confidential without prejudice".

It is noted that there have been a number of witness statements available on the 4 Yearly Review website which refer to the ARTD report. As there has not yet been a decision to publically release this report, Endeavour and any other party who refers to it, has breached confidentiality. Further, we note that some witness statements also refer to the trials and demonstrations of the modified supported wage, which again was bound by confidentiality. It is of concern, that these employer groups and other parties have failed to adhere to the rules of confidentiality.

If you have any queries in relation to the above, please email us at noni.lord@aed.org.au or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kairsty Wilson', written in a cursive style.

Kairsty Wilson
Principal Legal Practitioner
AED Legal Centre