

Our Voice Australia



SUBMISSION AND WITNESS STATEMENTS

3 November, 2017

AM 2014/286

We attach 52 witness statements received from ADE workers and their families requesting that their views be taken into account at the forthcoming Fair Work Commission Hearing *AM2014/286*. They form an integral part of the following submission on behalf of the members of Our Voice Australia Inc.

SUBMISSION

The Our Voice Australia general membership who work in ADEs and their families, who are also members, feel that they have not had a say in any of the previous actions that have been taken about them, nor have they been consulted with, had their opinions, choices or voices heard- by people taking these actions about them, to date. These actions have now culminated in arbitration at the forthcoming Fair Work Commission Hearing *AM2014/286*. We consider our member's input is a critical part of that process. The Statutory Declarations which form part of this submission come from ADE workers and their families accessing different services, and from a variety of Australian states and regions. There is a common thread to these statements. They endorse most strongly – as does our general membership – their opposition to the removal of the industrially approved suite of existing wage assessment tools containing a skills (competency) component and their compulsory replacement with the totally productivity based Supported Wage System.

We must re-iterate our objection to the draft determination lodged by AED Legal Centre, which proposes:-
“that the Award provide only one method for determining a rate of pay for an employee with a disability below the minima prescribed by clause 14.2 for Award covered work. That method should be the Supported Wages System (the SWS). The AED also proposes consequential amendments to clauses 14.4(c)-(h) of the award”

We base our objections to this Draft Determination on information gleaned from;

- The life experiences of our family carers- and their family members with intellectual disability and complex needs.
- The lack of national consultation and representation exercised by the AED Legal Centre – and associated advocacy groups - in a matter which could have adverse impacts on employment opportunities for our members with disability and resultant detriment for their family carers.
- Information contained in the attached statements

- Surveys
- Personal discussions with our national membership.
- Our participation in the Fair Work Commission’s conciliation process, along with other stakeholders, over the past 3 years.
- Collaborative and collegiate working relationships with Carers Australia, the National Disability Services Peak Body (NDS), communities, individual service providers and the business expertise of the Our Voice Australia Executive and the wider business community.

We have submitted that the Award should include a “*Rights at Work*” section detailing the industrial avenues and processes that are available and should be followed by employers, employees and their representatives in times of conflict and/or major workplace change.

We have submitted that the appropriate representative, where there is no formal guardianship status for our family members lacking self-advocacy skills and legal capacity, should be their chosen “nominee”. This is usually a family representative- if one exists. This aligns with national representation for Centrelink, Medicare and Health systems - as well as the National Disability Insurance Agency. “Nominee” representation provides consistency in process and does not call for new laws, definitions and reviews to be undertaken that may then have broad ranging ramifications across State, Territory and Commonwealth boundaries and within their agencies.

As a self-funded family advocacy group (www.ourvoiceaustralia.org.au) we work with our membership to promote and defend the rights of our members with intellectual disability and complex needs, as well as their families and carers.

We view the actions of the advocacy groups involved in this Draft Determination, lodged by the AED Legal Centre, to be a breach of:-

1. The shared objectives of the stakeholders involved in the Fair Work Commission process *AM2013/30* which was carried over to *AM2014/286* and involved considerable personal impost on our representatives in that 3 year process. Those shared objectives are summarized at [6] (a) to (d) inclusive- in the Statement issued by Deputy Commissioner Booth on 15 October, 2015, and reproduced as pages 4 and 5 of this objection to the Draft Determination of the AED Legal Centre. Our conciliation representatives were and remain, family carers - fulfilling their unpaid and all too often un-recognised role - on behalf of our Australian Disability Enterprise (ADE) employee members – and the general membership of Our Voice Australia. These conciliation representatives were there then – and are here now - as a participating party to *AM2014/286* to promote and defend the rights of our family members to have a say in future employment decisions.
2. The collegiate commitment and funding guidelines imposed on Government funded disability representative organisations.
3. The duality of social and employment focus which established Australia’s Network of Disability Enterprises and is an important thread of the fabric of Australian communities. That duality of focus is an historical fact. It needs to remain as Government policy transitions from the medical

model of disability to the social model. The industrial aspect of this transition is but one part of a continuing social policy which now includes the National Disability Insurance Scheme (NDIS). Australia's future employment pathways (which include supported employment) must provide a continuum of employment options to satisfy the social and economic participation objectives of the NDIS - as it is fully implemented throughout the nation.

- 4 The National Carer Strategy – and its priorities- as the whole-of- government link for our employee members – especially those who require a lifetime of care and support.

As some of our employee and family statements confirm, open employment hasn't worked for all of our family members throughout the diversity of need and ability nor across the many regions of our nation. If an employee with a disability has tried that option and it hasn't worked- for whatever reason, then their human right of choice must be respected. Equally if an employee has no wish to try that option - they have the same right of choice as any able-bodied employee.

Our statements provide examples of;

- Open employment that has failed or was found not to be in the best interest of our member
- Sibling care; inherited responsibility to ensure that their sibling has the opportunity to live a full, valued life; to participate in the community and in the workforce that suits their ability, their social needs and not be forced into inactivity as a consequence of these actions.
- Multi-generational (sandwich generation) care where the impost of supporting multiple family members removes the ability to live your own life as a contributing member of society.
- Families with no access to, or little understanding of, computer knowledge which is increasingly becoming the only method of communication for access to Government policy and advocacy focus.
- The incidence of multiple-disability both in nature and numbers within a family unit
- The ongoing need for family commitment and care of many employees outside of their work environment.
- The high incidence of sole parent care with the poverty that this brings across their lifetime.

It is our organisational experience that about one third of our members has limited access to and/or understanding of computers, internet or email services. Due to people being dependent on hard copy print as a means of providing information, informing and receiving responses is both time consuming and labour intensive. Despite the very significant barriers presented by this lack of access the witness statements provided by some of our members help to inform the current Review of the Supported Employment Award (SESA) from a variety of State, Regional and rural members – for your consideration.

We request that the privacy of the individuals be respected and that relevant identifying information be removed from the individual statements, before they are displayed for public scrutiny. We understand that full identification is required to provide authenticity for the Fair Work Commission and its due processes.

Yours faithfully



Our voice Australia - PO Box 133-

Mary Walsh
PO Box 133, DRUMMOYNE
Tel: 0418 887 976



[2015] FWC 7134



FairWork
Commission

STATEMENT

Fair Work Act 2009

s.160—Variation of modern award

United Voice; Health Services Union
(AM2013/30)

DEPUTY PRESIDENT BOOTH

SYDNEY, 15 OCTOBER 2015

Progress in conciliation.

[1] In December 2013 United Voice and the Health Services Union made an application to the Fair Work Commission to vary the Supported Employment Services Award in relation to the setting of wages for employees in supported employment. These employees are employed in Australian Disability Enterprises.

[2] In June 2014 a Full Bench of Commission referred the application to conciliation before me.

[3] The parties represented in the conciliation include the unions, the ACTU, National Disability Services (NDS), Australian Business Limited (ABL), disability advocacy representatives, Australian Disability Enterprises (ADEs) and representatives of parents and carers.

[4] These parties have attended conciliation, with the Department of Social Services observing, throughout 2014 and 2015.

[5] During conciliation and between sessions the parties have exchanged views and undertaken intensive research in an effort to reach agreement on matters before the Commission.

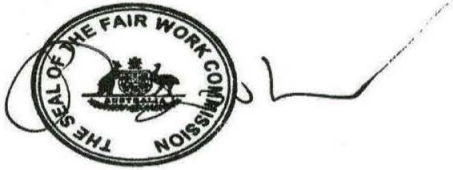
[6] The parties agree that their shared objectives are:

- a) A fair, equitable and non-discriminatory wage outcome to contribute to a living income for employees in supported employment;
- b) Continued opportunity for employment in supported employment settings to build and maintain the self-esteem and sense of purpose of employees;
- c) Sustainable employment opportunities in viable ADEs; and
- d) To provide security and confidence to employees, parents and carers for the future.

[2015] FWC 7134

[7] The parties are developing options, including modelling, to endeavour to meet these objectives.

[8] Conciliation will continue.



DEPUTY PRESIDENT

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<Price code A, PR572987>