

As the father of a daughter with a disability who is currently employed under the terms of the Business Services Wage Assessment Tool (BSWAT), I wish to comment on the above application.

In my view, the BSWAT is flawed in that it requires the very subjective assessment of an individual officer to determine the level of work at which my daughter can function. She was evaluated on a number of subjects that are not relevant to her situation (e.g., “set up her own workstation” – which is never done by anyone at the place where she works) and was marked down because of her inability to demonstrate competency in this and other areas. It is discriminatory to use an evaluation tool that requires a certain level of intellectual competence to achieve a successful result, especially when the workplace concerned exists solely for the purpose of providing employment for people with an intellectual disability.

The speed at which my daughter could perform tasks was assessed as a percentage of what the determining officer thought he himself could do in a given time. However, this officer would never have to do the simple tasks that my daughter is required to perform. She should be judged on her own productivity, not measured against the productivity of some arbitrary judgement of a third party.

I was therefore very pleased to note the Federal Court ruling in the case of *Nojin & Prior v Commonwealth* [2012] FCAFC 192 and the statement of the judges that, by virtue of their intellectual disability, Mr Nojin and Mr Prior were not able to comply with the competency component of BSWAT in their particular circumstances.

From what I have read of this case it would seem that my daughter would also fit into this category and, if so, this ruling means that it would be unlawful discrimination for my daughter to continue to be assessed by BSWAT for the next three years, as requested by this Application for Temporary exemption. I therefore oppose the application in its present form.

While I understand that time is needed to correct the problem, three years seems to me to be a totally unacceptable and unnecessarily lengthy delay. There is no reason why an alternative tool to the BSWAT (or a thorough review an amendment of that tool) could not be completed in considerably less time than that. It should not be necessary to complete all aspects of the disability services review as detailed in Attachment A of the Application before the new or improved BSWAT could be introduced.

I should add that as an ex-public servant with senior management experience I know just how easy it is to procrastinate and turn relatively simple issues into unnecessarily complex ones. With my experience, I would expect that if resources were allocated to this task (and allowing for consultation with all stakeholders) a new or improved BSWAT could be developed within 18 months. As other aspects of the disability services review are completed, the new or revised BSWAT could then be re-evaluated and improved or discarded, as determined necessary.

Such an approach would in my view present a much fairer alternative to a three-year delay in the achievement of proper wages for people with an intellectual disability.

Yours sincerely,

Michael Adams M.A.P.