

Australian Human Rights Commission
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October 16 2013

Dear Sir or Madam

Reference: BSWAT

Thankyou for the opportunity to provide comments on the BSWAT as a tool for the assessment of a determination/guide to pay scales for disabled persons working in Australian Disability Enterprises (ADE's).

Firstly, no objection is raised to the retention of this system until such time as replacement method is found or that the current system is modified. It maybe that another approach altogether is required.

Notwithstanding that there no objections, we will provide some comments regarding the payments made to disabled persons working in ADE's in the hope that these comments might be taken on board in the analysis.

So that it is understood, we have a mentally impaired Sister, Kathryn (Kathy) who works in one of the ADE's. We are the administrators of her affairs and are appointed by the Guardian and Administration Board. (GAB).

First and foremost, Kathy enjoys the work at VATMI industries and the camaraderie with her colleagues some of whom are "normal" everyday working people. In this work, she is exposed to everyday situations that occur in the work place and is able to function at a high level. To that end, she is valued by her employer evidenced by the variety of work she performs and the hours that she is able to work.

Of course, we are strong supporters of the ADE's in that they provide opportunities for disabled persons who, without this exposure, may not experience the quality of life that is currently experienced

Kathy lives in a shared house with 7 others. This group have been together since birth and all live together in harmony. Each of the residents pays rent and lodging to the Government through monies from the pension and/or other money, which we have managed for her. Further, each of the residents perform tasks around the house on both a daily and weekly basis. This also enhances their living skills.

It is against that background that, in the case of Kathy, the money is of secondary importance. Further, perhaps we could use Maslow's hierarchy of needs whereby we all need physiological needs, but it is the social needs – affection friendship and belonging – that are the most vital to people like Kathy.

So now we turn to the BSWAT and the Federal Court of Australia document, Nojn Vs Commonwealth.

In my reading of this document and simply to provide some constructive feedback on the wage tool for the future.

It is clear throughout this document that there are two different streams of disabled persons:

Physically Disabled
Mentally Impaired

Paragraph 14 of the Nojin vs Commonwealth document is cited whereby the trial judge concluded that the appellant(s) “were not less able than other disabled people (not intellectually disabled) to comply with

Clearly there is a difference between the “disabled persons”. For example, a person in a wheel chair unable to move or have restricted movement of limbs might have a functioning brain in what might be categorized as “average”. That same person is able to use their analytical and reasoning powers.

Conversely, an intellectually disabled person may have full use of limbs, but their powers of analysis and reasoning are called into question. Under the current system, it certainly appears that a “one size fits all” approach.

It is against that background that I will turn to the actual tools used in this current wage assessment.

Pages 16-19 of the document, Nojin vs Commonwealth:

“The core competencies”

Workplace Health and Safety

Rather than re-invent the wheel as it were, suffice to say that, of course, OH&S is of extreme importance, but it is the second part of the document under the heading of “questions” that I feel is more analytical and perhaps should be weighed against the comments I have made earlier about two different streams of disabled people.

I am sure that most people with a physical disability would be able to analyse the questions and provide the answers. An intellectually disabled person may if shown what to do, may carry out the necessary task. But to analyse why something is done is a different matter.

Communicate in the Workplace:

Some of this section, I believe, is quite valid. However, the rationale as to why a meeting is held of the outcomes of such meeting may be well beyond the capacity of an intellectually disabled person.

Workplace Observation

Most of these are suitable provided that this document is not used verbatim and more familiar language is used.

Apply Quality Standards

Again here language will provide an integral part. If the document were to be used verbatim, many intellectually handicapped persons may not understand.

Core Competencies

I have assumed that these are tailored around each employee’s duties. Again, provided that the language is familiar, I do not see any problems with this assessment.

Future Wages

Here is am going to restate the fact that Kathy enjoys her work and the actual money is of little or no concern to her and her current lifestyle.

As Kathy is now approaching middle age, while she is reasonable fit and healthy and is able to work, concerns are expressed for the future should her health take a turn for the worst and she is unable to work. We suggest that many other families share the same concern.

How the Disability Care scheme will affect intellectually disabled persons is something that may have to be taken into account when determining what is fair for people working in ADE's.

Furthermore, the elasticity of income and pensions is another factor that must be brought into the mix.

Perhaps I might suggest here that whatever tool is used to assess the wages for persons working in ADE's, that Superannuation is also included. Only due to the threshold not being reached, I see no other reason for it not to be included. Such a move will allow some income in retirement or when a person cannot work for health reasons.

It is fully understood that, for some time now, ADE's are competing on a level playing field whereby should not they be competitive, work will go off shore to those countries that do not enjoy the same standard of living as we do in Australia. Moreover, it is agreed that in many cases, employees of the ADE's may require higher supervision thus leading to higher costs.

To conclude, we suggest that without the ADE's, many disabled persons would not enjoy the quality of life that they do through this work and never experience the fulfillment of working and seeing the value of the end product, not to mention being part of a team.

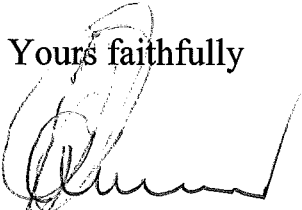
We agree that the BSWAT tool, in its current format, is in need of a revision and, in particular, identifying that there are two types of disability and building an assessment tool that caters to this fact.

As employers, we are bound by award rates and staff on the job in accordance with their duties. If there were award rates for people with a disability, there may well be no need to an assessment tool set by Government, but rather one used Nationally by the ADE's and agreed to by Fair Work Australia.

I hope that this provides some insight into how we, as administrators, see the disabled employment and where work is not simply a wage issue, but a quality of life.

Thankyou again for this opportunity to express our concerns and speak for those who are unable to speak for themselves.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Garry Corcoran', written in a cursive style.

Garry Corcoran
On behalf of the Administrators

Laurette Macwhirter and
Garry Corcoran