

Additional email attachment for submission by Mary Walsh. The email attachments have already been provided in the primary source document

Thank you for including the email in the primary document

Mary Walsh

From: Mary Walsh [mailto:marywalsh6@bigpond.com]
Sent: Sunday, 20 October 2013 12:46 PM
To: 'ron.mccallum@humanrights.gov.au'
Cc: 'graeme.innes@humanrights.gov.au'
Subject: BSWAT
Importance: High

Dear Professor McCallum,

It was inspiring to hear you, Graeme Innes and John Kemps at the recent NDS International Disability Employment Conference. You have all managed to overcome tremendous physical difficulties, displaying determination and courage to rise above your physical impairments and advocate on behalf of People with Disability at national and international levels. I managed to catch up with Graeme, but missed you, so am taking this opportunity of forwarding you some files which will explain my position. You will have heard the gist of my advocacy on the floor of the ADE session.

I attended that conference at some personal financial impost- as I am an independent advocate – just as I was on behalf of thousands of Australians – 10 years ago on the floor of the AIRC in the Industrial discussions and decision which resulted in the acceptance of the BSWAT.

Attached is my letter to the NCID re their lack of representation on behalf of ALL people with an intellectual disability employed in Australia's 600 business ADE's.

I am meeting with the NCID Board this Friday, 25th. October, in Brisbane to discuss the matters raised in my letter to them dated 25 July, 2013. I do not intend, in this letter, to re-iterate matters which were publicly discussed at that ADE Forum.

Please understand that I am prefacing my comments about intellectual disability using the terminology "competent". It is a word families find repugnant when referring to their family members with disability – but let's call it like it is. We have been told that future wage tools should be based on "productivity" and should exclude a "competency" component – if they are not to be contra the intent of the Disability Discrimination Act. This assumes that the worker is, therefore, "incompetent". So, now we face a future based on "productivity" alone. With respect, even robots can be made to be extremely productive, and modern technology is quickly replacing personal service with self-services, user fees and making the human face extinct – all in the name of productivity, turnover and profit.

From this background then, I make the following comments

- I was disappointed to hear you support the BSWAT legal outcome, but can understand that your legal background would have been paramount.
- I question whether the needs of a person with intellectual disability – i.e. not legally competent – are identical to the needs of people with physical/sensory disability, who are blessed with intellectual competency. Basic human needs are the same, but intellectual incompetency is more dis-empowering. More compassion, more options, more understanding at policy level and greater flexibility will enhance the incompetencies of people with intellectual disability, and assist them to become more competent – in the eyes of the outside world.
- I was disappointed to see that the NCID didn't appear to be represented at that conference – even though their next Board meeting is in Brisbane – 2 weeks later. It would seem reasonable –

to the average, “reasonable” person that the NCID would have been there to explain the reasons for their ideological war against 20,000 people with disability in 600 Australian ADE’s.

- The argument that “No person should be paid \$1 per hour as a wage” needs to be fitted into the context of each individual worker. We all aspire to the ideal – trust me – when you’ve lived the journey and the price demanded – you know this is not all about “Rights”. The 3 R’s for family carers are “rights, reason and responsibility” – the same as it is for ALL Australians – be they able-bodied or disabled to the extent they are considered “legally incompetent”.
- The attachments provide some personal examples of my own son’s life, the ripples of his journey through life and how much he taught so many in his 39 years – including me.

Our son is representative of many of the workers in Australia’s business services. Let me take you through some aspects of his life. The basic issue of “human rights” needs to be balanced with individual circumstances and support needs

- We were denied guardianship of Tony because, even though he was a threat to both himself and others – he had “rights”. At considerable personal, emotional and financial cost we eventually won that one – and later instances proved that he and his family knew what was best for HIM. His disorder was rare – we were being guided by the world’s best authorities on his disorder – but the “rights” mob – knew best and it was almost a disaster.
- He had complex medical conditions and, at one stage spent 13 weeks in hospital, where he was precariously ill. Eventually he had a section of his bowel removed and given only days to live. Do you have any idea of how difficult it is for someone who is “legally incompetent” to manage a colostomy bag? – and still participate in the outside world without “hang-ups and challenging behaviour”.
- I lived at the local hospital all that time, going home for meals and used his room as my office - (we have 3 other children and were primary carers for my mother who lived with us). Tony came through all that, and we were blessed to have him for a further 10 years. He survived because we procured the best possible care we could from our regional health services – both private and public. Both my husband and I worked 2 jobs . The shortfall in medical bills and hospital care was \$14,000, even though he had basic hospital private cover. We negotiated it back and were left with a bill of \$8000. We had to sell our pool table, our family camper trailer and some household items - but we still had our son, and further surgery 9 months later returned normal use of bodily functions.
- When Tony was working at his local business service he was paid between \$50-\$60 per fortnight. He got his pay slip, knew it went into his bank and we would accompany him every Saturday to draw out his personal “spending” money from the ATM –“That’s the window where we get our money-Mum”. That was his money to spend on what HE wanted – and he haunted the second hand shops chasing magazines, and second hand computer games – thus the attached story. When he could no longer attend the business service he lost the \$50 pf – and had to spend \$150-\$200 pf to access a day service. We continued to provide his \$50pf from OUR resources because that gave him independence and quality of life.
- This personal journey is provided for no reason other than to instance that the mantra of the Australian Human Rights Commission which is “*everyone, everywhere, everyday*” needs to be literal. You can’t shop it around to the extent that SOME of THE most vulnerable people with disability could “*everywhere, everyday*” be deprived of their RIGHT to attend a service of their CHOICE, simply because people paid to represent their needs and rights have made an ideological decision that “rights” are paramount. The NCID’s interpretation of “Rights” means that business services shouldn’t exist and that it is better for these vulnerable people to lose their “work” income, ethic and dignity, and pay out 4 times what they now receive to attend a day service – or just stay at home and retreat from the world.-

I make no apology for addressing this issue – the way it is. Please understand there is nothing personal in my comments, and your own journey through life is one of remarkable courage. Our disabled family members lacking “legal competencies” lead equally courageous lives. This “rights” issue has now degenerated into a money issue – and, in the hands of the NCID – it was always going to do that – as my letter to them suggested. I was appalled to hear at the Conference that it was already happening, and

had many discussions with some of the ADE's now being lined up for prosecution. I represented many of the workers from these ADE's before the AIRC 10 years ago.

Professor McCallum – this is immoral – and someone- somehow – has to get some common sense into this whole debacle. It should never have gotten this far. ***“some disabled worker, everywhere, everyday” now lives in fear of losing their “job” – along with the dignity, the income (irrespective of amount), the social inclusion, and self-esteem that being a worker in a community now provides”.***

Thank you for your life-long contribution to the disability sector and the world, in general. On behalf of the “Tonys” of our world - please see beyond the “rights” issue – and recognise that this is about a specific agenda – and “rights” is but the trigger.

To-day I will be lodging my submission to support an exemption for the ADE's to work their way through this matter - at this stage there is little more that I can do

Sincerely

Mary Walsh OAM, CPA, AIFS,JP(Q)
Parent/Advocate.