

**Submission to Inquiry: the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014:**

Recent times has seen a surge in interest and concern around the issues facing people with disability in Australia, thanks largely to the campaigning and advocacy for a National Disability Insurance Scheme (NDIS). With the progressive rollout of the NDIS comes at last a real chance for dignity, respect, equality of opportunity and meaningful fulfilment. So it is with great concern and disappointment that I discover that the federal government is attempting to introduce legislation that not only is incompatible with the goals and aspirations of the NDIS but would also translate into the continued violation of the rights of people with disability.

The Business Services Wage Assessment Tool Payment Scheme Bill 2014 and Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014 will clearly breach the rights and dignity of people with a disability, and especially people with an intellectual disability. It is hard not to come to the conclusion that these pieces of legislation are designed to absolve the Commonwealth of responsibility for discriminatory practices as determined by the Federal Court in *Nojin v Commonwealth of Australia* and to save money. In particular, I am concerned that the payment scheme will only pay (not compensate) eligible workers 50% of their wages had they been calculated based solely on the productivity component of BSWAT (the competency component having been determined discriminatory by the Federal Court), and that if people accept this payment then they rule themselves out of any class or alternative action seeking 100% compensation.

The Parliamentary Joint Committee on Human Rights shares these concerns in its examination of this proposed legislation. They highlight concerns around preventing the full enjoyment of the right to an effective remedy, the right to just and favourable conditions of work and the right to equality and non-discrimination. I implore the Inquiry to take into close consideration this latest report of the Parliamentary Joint Committee on Human Rights.

The BSWAT has been determined as discriminatory. The Australian Human Rights Commission has granted the Commonwealth a 12-month exemption to sections of the Disability Discrimination Act in order to transition from the BSWAT to the Supported Wage System (SWS) or an alternative tool approved by the Fair Work Commission. Therefore, to base a payment scheme on a discriminatory wage assessment tool that is being phased out does not make sense and in fact further exacerbates the rights violation by not providing an effective remedy.

This proposed legislation sends conflicting messages as to the dignity and worth of people with an intellectual disability. Does a 50% payment imply that people with an intellectual disability are only valued half as much as people without an intellectual disability? And remember, this is 50% of a wage that is already extremely low. Any compensation must be based on a wage determination tool like the SWS that is fair and is already used widely, and must be paid in full not an arbitrary half. If this legislation is passed, then it will represent the formalisation of continued discrimination and exploitation of workers with an intellectual disability. This is plainly wrong, but it is especially incredulous in the current climate of disability reform and the promotion of dignity and respect associated with the NDIS.

Thank you.

Matthew Dimmock