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16th July, 2014

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary,

Submission to the Senate inquiry into the Business Services Payment Scheme Bill 2014

I am the Disability Advocate at the Coffs Harbour office of Disability Advocacy, NSW. Please see below a submission in regard to the Senate Enquiry into the Business Services Payment Scheme Bill 2014.

I strongly object to the bill in its current form for the following reasons:

- The Business Services Wage Assessment Tool Payment Scheme Bill 2014 (BSWAT Bill) offers a potential payment of up to 50% of what each person is owed for work already completed in exchange for them losing their legal right to seek a fair pay settlement through the class action case currently before the Federal Court.
- The result would be that a large number of highly vulnerable Australians, who are already the lowest paid workers in the country, being induced to settle for half of their entitlement.
- The BSWAT Bill also includes a radical provision allowing the departmental secretary, who has allowed workers to be paid under a discriminatory tool, to appoint nominees to act on behalf of individuals without their consent. This is a clear conflict of interest.
- The High Court has already ruled in favour of two workers in an identical situation to those who would be impacted by this legislation, providing a very strong legal precedent for the class action case.
- This legislation would lead to very unfair outcomes for these underpaid workers and that it is also a manipulative attempt by the Federal Government to take advantage of people's limited access to information and legal advice.
- Instead of encouraging independence, dignity and fair pay for honest work, it attempts to take half of the wages of people who are only earning \$3 or so per hour to begin with.
- Where employees with disabilities have been underpaid due to BSWAT, they have a legal and moral right to be compensated in full.
- The BSWAT Bill is not in the best interests of this group of Australians, nor is it in the interests of their families, carers or the broader community. It is inequitable, complicated and unnecessary in terms of the broader context for underpaid workers.

Mr Josh Bornstein, Principal at Maurice Blackburn Lawyers, described the Business Services Payment Scheme Bill 2014 as: "a blatant attempt to coerce some of our most vulnerable workers into signing away their legal rights, for a sum of money that is just half of what they should be paid".

The Business Services Payment Scheme Bill 2014 affects the human and legal rights of employees with an intellectual disability and it disregards decisions of the Federal and High Court of Australia. Employees have a right to be compensated in full by applying a simple formula that has regard to the difference between what their wages would have been by using their productivity-based score and their actual wages.

This could be achieved by putting in place administrative arrangements that are much simpler than the proposed Bill and do not require registration, application nor the appointment of nominees.

It seems that the Commonwealth continues to deny any liability, having first developed the BSWAT and being the current legal owner of the assessment tool. This legislation would lead to very unfair outcomes for these underpaid workers and that it is also a manipulative attempt by the Federal Government to take advantage of people's limited access to information and legal advice.

The BSWAT Bill is not in the best interests of this group of Australians, nor is it in the interests of their families, carers or the broader community. It is inequitable, complicated and unnecessary in terms of the broader context for underpaid workers.

Regards

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