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2011 LIV Community Lawyer of the Year Award | 2013 Tim McCoy Award | 2014 HESTA Social Impact Award  
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3 August 2022

**EMAIL: [Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)**

Vice President Hatcher  
Fair Work Commission  
11 Exhibition Street  
MELBOURNE VIC 3000

Dear Associate

**Re: AM286/2014 – Supported Employment Services Award 2010**

We refer to the above and to the directions issued on the 27 July 2022.

**Re: Our Voice Witnesses**

During the directions hearing on 27 July 2022, the Vice President indicated that the Full Bench would consider whether to grant leave to cross examination of the 14 unidentified deponents of witness statement attached to a submission from the organisation “Our Voice.” The Vice President directed AED, the ACTU and the UWU to identify what they wished to cross examine the individual witnesses about.

As AED, the ACTU, and the UWU understand the position advanced by Our Voice (see page 144 of the Our Voice Submission), all 14 statements are proffered (and hence it is assumed said to be relevant to the Full Bench’s review) because, it is said, they contain evidence from the deponents that affords evidentiary support for something Our Voice describes as “reverse ableism.” This is said to explain why the “campaigning,” arising, it is also asserted, “from within the disability population,” for “nothing other than ‘open employment’ is a step too far for most ADE workers.” On their face, the statements also contain subjective information about the reaction of the individuals to the closure of a Western Australian ADE.

Whatever “reverse ableism” means and whatever the status of the campaign said to be waged “from within the disability population” for open employment only, or indeed whether it is a step too far for most ADE workers, let alone whether any such thing constitutes a denial of a human right is bare assertion that amounts to submission. It can be dealt with as such. Moreover, the subjective information contained in the statements about the reaction of the individuals to the closure of their employer (the true circumstances of which remain obscure) does not assist the Full Bench to decide what minimum wages should be payable

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*01/07/2022 Please note change of contact email address*

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under the Award in respect of ADEs as a whole that continue to employ or the method by which an actual wage should be determined in an individual case.

The witness statements should not be received into evidence. They do not relevantly inform the Fair Work Commission. However, if the Full Bench is minded to receive the statements the weight that ought to be given to them becomes a matter of significance. AED, the ACTU, and the UWU would cross examine on the following themes:

- (a) The circumstances in which the witnesses completed their statements and the process by which that occurred, including what they have been told, if anything, by anyone who helped them with their evidence.
- (b) The witnesses actual personal knowledge (and the basis on which that knowledge has been gained) of the following matters arising in their statements:
  - The basis upon which they give evidence about the loss of their jobs, their knowledge of any plans to assist them to find other jobs, and whether this affects their evidence;
  - Their understanding of the present case and the source of their knowledge about this case (a subject touched on in the statements themselves);
  - Their view of wages and what influences that view;
  - What has been offered to the witness to find alternative work and their view of what work they will accept.

## **Re: Attendance**

Our preference is to have both physical and video link, as indicated below:

- Physically attending the hearing in Sydney will be Sunil Kemppi of the ACTU, and Malcolm Harding SC.
- Participating by video-link will be Kairsty Wilson and Phillip Zlatkovic of AED.

As to the mode of appearance for our witnesses:

- Professor Emeritus Ron McCallum shall appear in person in Sydney;
- The remainder of our witnesses will appear remotely.
- We anticipate that most of these witnesses will participate using MS Teams. However, we would also like to enquire as to whether the FWC is able to facilitate a video-link from its Melbourne premises for at least one of our witnesses. Please advise if this can be accommodated.

If you have any queries in relation to the above, please email us at [aedlegal@aed.org.au](mailto:aedlegal@aed.org.au) or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kairsty Wilson'. The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Kairsty Wilson  
CEO/Principal Legal Practitioner  
AED Legal Centre