

From: Mary Walsh <marywalsh6@bigpond.com>

Sent: Friday, 17 June 2022 12:53 PM

To: Chambers - Hatcher VP <Chambers.Hatcher.VP@fwc.gov.au>

Cc: noni.lord@aed.org.au; Emma Gruschka <Emma.Gruschka@sparke.com.au>; Kairsty Wilson <kairsty.wilson@aed.org.au>; Ben Redford <ben.redford@unitedworkers.org.au>; Alana Rafter <Alana.Rafter@ablawyers.com.au>; Leigh Svendsen <leighs@hsu.net.au>; 'Sunil Kemppi' <skemppi@actu.org.au>; mlcinitaly@gmail.com

Subject: AM2014/286 - F52 -Application for notice to produce

Dear Associate,

We acknowledge the application by AED – the Applicant Party – for production of data which includes aspects of the Fair Work Commission New Wage Assessment Structure Evaluation Report (the **Evaluation Report**).

We provide our response, as the participating party on behalf of employees, their families and carers.

Please advise if we have omitted any other party who should also be notified.

Kind regards

Mary Walsh
Our Voice Australia



There are more than 700,000 Australians with intellectual disability, and associated complex needs. There are more than one million family members who support them.

Our Voice Australia is a voice for those who cannot self-advocate.

www.ourvoiceaustralia.org.au

17 June, 2022

In the Matter of 4 yearly Review of Modern Awards – Supported Employment Services Award
Matter Number AM2014/286

As the acknowledged party representing employees, their families and carers in the above matter we raise our concerns about the F52 Application lodged by the Association for Employees with a Disability (AED Legal Centre). The Order seeks the production of certain data from the recent New Wage Assessment Structure Evaluation Report (the **Evaluation Report**).

Without access to legal counsel for our member employees, their families and carers, we raise our concerns to ensure that the assurances they received about their privacy, if they participated in the Evaluation Trial, would be protected by the Commonwealth and all parties to this matter.

We provide this submission as the only way we can ensure our members have a voice in how their privacy is now managed by all parties.

Please note the following facts in relation to the Wage Trial Processes.

1. Our Voice Australia has represented employees, their families and carers (our members) in this matter *AM2014/286*, and the previous matter *AM2013/30* since 2014.
2. We are the recognised stakeholder for the employee parties in these matters, and were nominated by the Fair Work Commission as a member of the Steering Committee over-seeing the development of the processes for the Trials.
3. As the organisational regional co-ordinator, I have been representing our members in this matter, assisted by our Public Officer Ms MaryLou Carter, over all those years.
4. Organisationally we assured our members, who might have participated in the New Wage Trials, which led to the **Evaluation Report**, that their identities, and the names of the ADE's participating, would be de-identified, to protect their individual privacy.

We fully appreciate that the Fair Work Commission must inform itself about issues necessary to make their final determination. This could involve access to some of the finer details around the assessment results of some employees and participants in the Trial – be that employer and/or employee.

We are not formally objecting to the release of information which any party feels is needed to make their own determinations. However, we must urge caution by all parties to ensure the privacy of our members (employees) with the release of more specific **Evaluation Report** data, is both respected and protected.

We urge this caution because:-

- 1. The Applicant Party refused to sign a confidentiality agreement, as a member of the appointed Steering Committee. They were fully cognisant of the fact that this would prevent them from continued participation as a member of the Steering Committee.**
- 2. This de-identification was an ethical decision because of the nature of the disability, and the need to protect the employees (our members).**
- 3. We are not privy to how many of our members participated in the Trials or where, but some sought re-assurances of their anonymity.**
- 4. Identifying a specific ADE identifies a geographic area and State, the type of activity and possibly the employees therein.**

Could we suggest that a simple process of allocating an ADE site number (i.e. ADE (1) - to whatever the final number) and repeating that process with employees (i.e employee (1)- to whatever the final number) might be a way of ensuring that all the necessary information is available to all the parties. Obviously the Commission could need more detailed information, but that could be redacted to protect the employees (our members).

We suggest this method as a way of ensuring we honour the reassurances we gave our members about protecting their identity, whilst allowing the Commission full access to whatever information they may need to make their own determination. The S52 Application by the Applicant Party seeks to drill down on the **Evaluation Report** data to individual employee and ADE site. The Applicant Party has previously refused to sign a confidentiality agreement. That would have been a considered decision, by them, prior to the Trials, so any information released should be in a format which protects the identity of the employee, and the ADE site.

Accordingly, the concerns of our members have now been formally advised to all participating parties including the Applicant Party.

Signed

Mary Walsh OAM, CPA, AIFS, JP(Q)

Our Voice Australia

Regional Co-ordinator & FWC Representative.

