

**Australian
Human Rights
Commission**

15 May 2015

Mr Warren Pearson
Branch Manager,
BSWAT Employment Response Team
by email: warren.pearson@dss.gov.au

Dear Mr Pearson,

Temporary exemption – Business Services Wage Assessment Tool

I refer to the letter from Mr Finn Pratt to Commissioner Ryan of 21 April 2015 and attached application for temporary exemption under section 55 of the *Disability Discrimination Act 1992 (DDA)*.

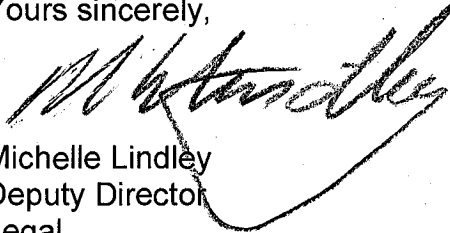
As previously advised, in order for the Commission to fully consider the application, it would be obliged if you would provide the following:

1. Detailed submissions as to how the application falls within the Commission Guidelines On Temporary Exemptions Under the Disability Discrimination Act, particularly the criteria set out on pages 3 and 4 of the guidelines (attached) and the issue of reasonableness.
2. Anonymised details of the employees that are still being paid pursuant to an assessment with the BSWAT, including:
 - a. The ADE by which they are employed.
 - b. The date on which their current assessment was conducted.
 - c. The proposed date on which their assessment under an alternative tool will be conducted.
 - d. If there is no proposed date, the reason.
 - e. The reason/s they have not already been assessed under an alternative tool.
 - f. The steps being taken to overcome any hurdles or barriers to the reassessment.
3. The relevance of the new productivity-based wage assessment tool being developed by the Fair Work Commission (FWC) to the application, given the current availability of alternative tools.

4. The status of proceedings in FWC.
5. A Full explanation of and evidence to support of the following assertions made in the Application.
 - a. disruption to transition for the sector if the exemption is not granted.
 - b. ADEs that have not commenced, or commenced but not yet completed, transition to alternative SESA wage tools may be in breach of their funding agreements with the department.' And how 'a breach may result in the withdrawal of funding, resulting in job losses for supported employees'.
 - c. some ADEs may simply choose to cease operations, resulting in job losses for supported employees.
 - d. disruption to work already underway to develop a new productivity-based wage assessment tool if the exemption is not granted.
6. Full details of the changes in wages of those who have been reassessed using an alternative tool and the actual financial impact this has had on the individual ADE's.
7. Full details of the plan to transition from the BSWAT to an alternative tool approved by FWC, with a proposed timeline.

I would be obliged if you would provide the information by 26 June 2015.

Yours sincerely,



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