

## Quarterly Report to the Australian Human Rights Commission

**Reporting period:** 1 August 2014 to 31 October 2014.

On the 29 April 2014, the Australian Human Rights Commission (AHRC) granted the Commonwealth and all Australian Disability Enterprises (ADEs) using or proposing to use the Business Services Wage Assessment Tool (BSWAT) an exemption for a 12-month period from the operation of sections 15, 24 and 29 of the *Disability Discrimination Act 1992* (the DDA). The exemption was granted to allow the payment of wages to ADE employees, based on current assessments already conducted with the BSWAT subject to the conditions for the Commonwealth outlined below. Progress against these conditions for the reporting period is provided as follows:

**a) Take all necessary steps to transition from the BSWAT to the Supported Wage System (SWS), or an alternative tool approved by the Fair Work Commission (FWC), as quickly as possible.**

- As previously advised, the Department of Social Services (the Department) continues to provide information to the ADE sector on a range of implications arising from the findings of the Full Federal Court; the AHRC decision on 29 April 2014 to grant a 12-month exemption from the DDA to allow wages to supported employees to be paid based on an assessment of the BSWAT; and proceedings before the FWC and the Federal Court. The main mechanisms used for this communication include disAbility e-news and departmental representation at National Disability Services' national and state forums.
- On 21 August 2014, the Government announced funding of \$173 million in part to develop and implement a new productivity based wage tool, including new assessments, for use across the supported employment sector.

**b) Take all appropriate steps to ensure ADEs using or proposing to use the BSWAT to conduct wage assessments immediately commence using the SWS, or an alternative tool approved by FWC, (other than the BSWAT) to conduct new and outstanding wage assessments.**

- As advised, the Commonwealth ceased allowing BSWAT wage assessments for supported employees working in ADEs on 24 December 2012.
- There are 29 wage assessment tools currently listed in the *Supported Employment Services Award 2010*, not including BSWAT. Of the 29 tools, the Commonwealth administers only SWS.
- The \$173 million funding announcement will provide ADEs with funding to transition to new wage arrangements, including assessments for the new wage tool for supported workers.
- The Department has Grant Agreement Managers who regularly engage with ADEs on a range of issues including monitoring of transition to new wage arrangements.

- Approximately 80 per cent of ADEs previously using the BSWAT have advised they are either transitioning to other approved wage tools or considering future wage setting arrangements.
  - Some ADEs have cited potential wage increases and corresponding viability concerns as a reason for not yet transitioning to new wage arrangements for supported employees.
- c) Report to the Commission, on a quarterly basis during the exemption period, as to:**
- i. The number of assessments conducted each quarter; and**
  - ii. The number of assessments still to be conducted.**
- For the period from 1 August 2014 to 31 October 2014, there were 123 SWS assessments for 123 ADE employees, an increase of 91 assessments on the April to July reporting period.
  - These assessments were performed at 22 ADEs across New South Wales, Victoria, Queensland and South Australia.
  - The Department's State Offices have also reported an increased number of enquiries from ADEs about SWS.
- d) Give consideration to ensuring that no disadvantage is suffered by ADE employees whose wages may be reduced as a result of the application of the SWS or alternative tool.**
- As previously advised, the Commonwealth's ongoing funding arrangements with ADEs is limited to the provision of case-based funding which provides support to assist supported employees in their workplace.