

Department of Social Services: Quarterly Report to the Australian Human Rights Commission

Introduction

On 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* (Cth).

The exemption includes a number of conditions and requires the Department of Social Services (the Department) to report against these conditions on a quarterly basis.

Reporting period

1 February 2015 to 30 April 2015

Report against conditions

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

The Department continues to encourage the ADE sector to take all necessary steps to transition their supported employees from BSWAT-assessed wages.

The Department is working with parties in the Fair Work Commission to develop an alternative tool, and has participated in several conciliation meetings with union parties, advocates, employer representatives and the peak organisation representing ADEs, National Disability Services.

The Health Services Union and United Voice have applied to the Fair Work Commission to have, through consent or arbitration, the BSWAT removed from the *Supported Employment Services Award 2010*. Their application requested the Fair Work Commission arbitrate the matter after 21 May 2015, if consent has not been reached by that time.

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

The Commonwealth suspended BSWAT wage assessments for supported employees working in ADEs on 24 December 2012.

The Department has continued to encourage transition to other wage assessment tools through information such as disAbility e-news and regional Grant Agreement Managers. Transition is dependent on each ADE deciding which wage tool is appropriate given their individual circumstance.

Condition (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.**

Organisation-level data:¹

Report period	Number of organisations previously using BSWAT	Number of organisations with all workers using alternate tool	Number of organisations with alternative tool and completed some assessments	Number of organisations with alternative tool, but have not commenced assessments	Number of organisations who have not identified an alternate tool	Number of organisations who no longer provide supported employment
Third Quarter: 1 Nov 2014 – 31 Jan 2015	109	17	19	47	24	2 (in process)
Fourth Quarter: 1 Feb 2015 – 30 April 2015	110 ²	37	35	33	3	2

¹ This data has been reported by organisations to the Department's Grant Agreement Managers.

² One organisation created a new function and is now counted as two organisations.

Supported employee-level data:³

Report period	Number of supported employees who work at an ADE that had previously used BSWAT	Number of supported employees assessed under alternate tool	Number of supported employees yet to be assessed by alternate tool	Percentage of employees who have transitioned to new wage tool
Third Quarter: 1 Nov 2014 – 31 Jan 2015	8534	2861	5673	32%
Fourth Quarter: 1 Feb 2015 – 30 April 2015	8538	4948	3590	58%

Of organisations which have identified an alternate tool, some have reported delays due to preparations for new wage assessments, and requisite staff training to undertake new wage assessments. Some organisations have a number of wage assessments scheduled, but not yet undertaken. As such, the Department has also collated data for this report that shows the numbers of supported employees where wage assessments have *not* been done, but some wage assessments have commenced in their workplace.

Further analysis of supported employee-level data:⁴

Report period	Number of supported employees who work at an ADE that had previously used BSWAT	Number of supported employees assessed under alternate tool	Number of supported employees yet to be assessed by alternate tool, where organisation has commenced assessments on alternate tool	Number of supported employees yet to be assessed by alternate tool, where organisation has NOT commenced assessments on alternate tool
Third Quarter: 1 Nov 2014 – 31 Jan 2015	8534	2861 32%	This information was not disaggregated for the Third Quarter Report.	
Fourth Quarter: 1 Feb 2015 – 30 April 2015	8538	4948 58%	1900 22%	1690 20%

³ This data has been reported by organisations to the Department's Grant Agreement Managers.

⁴ This data has been reported by organisations to the Department's Grant Agreement Managers.

Condition (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.

Where new wage assessments are producing lower wage outcomes than under BSWAT assessments, ADEs have advised they are maintaining employee wages at the rate of the BSWAT assessments.