**PROPOSED SETTLEMENT NOTICE**

**This is important information for you. It is about a legal case that you might be part of.**

**The parties in this legal case want to settle the case out of Court.**

**The Court has asked us to send you this information because your legal rights may be affected by the settlement.**

**You may have already received a letter about this case asking whether you wanted to stay part of the case or opt out of the case. This notice is different to that letter.**

**If you do not understand this notice, you should show it to:**

* **A family member;**
* **A guardian;**
* **An advocate; or**
* **Someone else you trust to help you make important decisions.**

**This notice is not legal advice.**

***What is this notice about?***

This notice is about a court case started by Mr Tyson Duval-Comrie as a “class action” in the Federal Court of Australia against the Commonwealth Government (the **Government**).

Mr Duval-Comrie is a supported employee with intellectual disability.

He works in an Australian Disability Enterprise (**ADE**) in Victoria.

Mr Duval-Comrie’s wages at his ADE have been worked out using the Business Services Wage Assessment Tool (**BSWAT**).

His case is about wages worked out using the BSWAT and paid to supported employees with intellectual disability in ADEs.

Mr Duval-Comrie started the case against the Government because it owns the BSWAT.

Mr Duval-Comrie’s lawyers in this case are Maurice Blackburn Lawyers.

We are sending you this notice because Mr Duval-Comrie and the Government have agreed to resolve the class action out of court. This means they won’t ask the Judge to decide who should win the case. This is called a “**settlement**”.

The Judge still needs to approve the settlement. The Judge will need to say it is fair and reasonable for all group members.

Your legal rights may be affected by the settlement.

***What is a class action?***

A class action is also called a “representative proceeding”.

It is a case started in Court by one person for a group of people who have the same problem with something that has happened to them.

This group of people are called “group members”.

You may be a group member if you have had your wages worked out using the BSWAT.

***What is this class action about?***

Mr Duval-Comrie has said to the Court that:

* Under BSWAT, people with an intellectual disability are paid less for the same work than people who do not have an intellectual disability.
* This is not fair. In the law, this is called discrimination and it is not allowed to happen.
* Other people like him should get more money because the BSWAT was used to work out their wages.

The Government does not agree with what Mr Duval-Comrie says. The Government has said to the Court that using the BSWAT to work out the wages of people with intellectual disability was not discrimination because:

* Using the BSWAT to work out wages for people with intellectual disability was a fair way to work out their wages.
* ADEs have done nothing wrong by using BSWAT to work out wages for people with intellectual disability.

***Are you a group member in the class action?***

You are a group member in the class action if:

* + You worked in an ADE before or on 22 October 2013;
  + You have an intellectual disability;
  + Your wage was worked out using the BSWAT; or (on 22 October 2013) your wage was going to be worked out using the BSWAT.

If you don’t know whether your wage has been worked out using the BSWAT, ask your supervisor or manager at work.

If you have opted out of the class action already, you are not a group member. To opt out of the class action, you had to send an “opt out” form to the Court by a date specified by the Court. The time when you could opt out has now gone.

Our records indicate that you have not opted out of the class action.

***BSWAT payment scheme***

You may have heard about the BSWAT payment scheme that has been set up by the Government. We usually call this “**the Scheme**”.

You may be able to get money from the Scheme if:

* you have an intellectual impairment (which includes an intellectual disability); and
* you had your wages worked out using the BSWAT.

***The settlement***

As explained above, Mr Duval-Comrie and the Government have agreed to settle Mr Duval-Comrie’s case out of Court.

Mr Duval-Comrie and the Government have agreed to the following things in the settlement.

1. They agreed that the Government would try to change the law so that people get more money from the Scheme.

The Government did this and the law has now been changed. The Scheme will now pay people about 70% of the money claimed for group members in the class action, compared to about 50% of the money claimed before the law was changed.

The law has also been changed so people have more time to register and apply to the Scheme for a payment.

1. Now that the law has been changed, Mr Duval-Comrie and the Government agree that the class action should end.
2. If the Court approves the settlement, group members in the class action won’t be able to take part in any other court case about the BSWAT.
3. Group members can register and apply to the Scheme for a payment. If the Court approves the settlement, this is the only way group members will be able to receive a payment.

These things agreed to in the settlement are contained in a document called the “**Deed of Settlement**". We explain below how you can get a copy of the Deed of Settlement.

***Who can apply to the scheme for a payment?***

All group members can register and apply to the scheme for a payment, unless they have already received a payment from another court case about the BSWAT.

The Government has agreed to make a separate payment to those group members who have already received a payment from another court case. Those group members will not get any more money than others.

Information about how group members can register and apply to the scheme for a payment can be found at:

<https://www.dss.gov.au/bswat-payment-scheme>

***What group members need to do***

As explained above, the Judge still needs to approve the settlement. The Judge will need to say it is fair for all group members.

If you are a group member and you do not wish to object to the settlement, you do not need to do anything. Please do **NOT** fill out the form on page 6. If the settlement is approved, you will receive a further notice informing you of that and of what you need to do next.

If you are a group member and you oppose the settlement, you can tell the Judge by filling out the form on page 6 and sending it to the Court by **5.00pm** on **29 July 2016**. We call this form an “**objection notice**”.

If you want to send any other documents to the Court about why you oppose the settlement, you should attach them to your objection notice.

***The hearing to decide whether the settlement is fair***

The Judge will hold what is called a “**hearing**” to decide whether the settlement is fair or not fair.

The hearing will be on **30 August 2016** at **10.15am**.

The hearing will be at the Court. The address of the Court is:

Owen Dixon Commonwealth Law Courts Building on the corner of William and La Trobe Streets, at 305 William Street Melbourne, Victoria.

Mr Duval-Comrie’s lawyers and the Government will be at the hearing.

You can come to the hearing if you want to come. But you do not have to come to the hearing.

If you sent an objection notice to the Court by 5.00pm on 29 July 2016, you will be allowed to talk to the Judge at the hearing about why you think the settlement should not be approved.

If you did not send an objection notice to the Court by 5.00pm on 29 July 2016, you can still ask the Judge at the hearing for permission to speak to the Judge about the settlement. It will then be up to the Judge to decide whether you can speak about this.

***What if I cannot understand or need help?***

If you cannot understand any part of this notice or need help to fill in the form on page 6 you should show it to:

* a family member or guardian
* an advocate
* someone else you can trust.

If you need help, you might need a **next friend** or **committee** to

* sign the form for you; or
* help you at the hearing if you want to tell the Judge whether your think the settlement is fair or not fair.

A next friend is someone who helps you in a legal case if you have trouble understanding things about the legal case.

A next friend could be someone in your family, a guardian or someone else you trust.

A committee is similar to a next friend but there could be more than 1 person helping you.

***What do I do if I have any questions?***

If you have any questions about the settlement or the class action, you or someone you trust can see the Deed of Settlement and the court documents for this case at:

[www.fedcourt.gov.au/classactions](http://www.fedcourt.gov.au/classactions)

[www.mauriceblackburn.com.au/BSWAT](http://www.mauriceblackburn.com.au/BSWAT)

Or you or someone you trust can call Maurice Blackburn Lawyers on 1800 645 990.

***Where can I get legal advice and assistance?***

You might want to get legal advice about this notice.

You might also like a lawyer to represent you at the hearing.

Generally, you will have to pay for a lawyer.

Some lawyers and advocates are free (or won’t ask you to pay as much).

You can find out information about those lawyers and advocates at:

[www.fedcourt.gov.au/legalhelp](http://www.fedcourt.gov.au/legalhelp)

<http://finder.dss.gov.au/disability/ndap/>

***Remember!***

If you do **NOT** wish to object to the settlement – **do nothing**.

If you wish to object to the settlement – **complete and return the form on page 6**

ANNEXURE A

NOTICE OBJECTING TO SETTLEMENT

No. VID 1367 of 2013

Federal Court of Australia

District Registry: Victoria

Division: General Division

**TYSON DUVAL-COMRIE (by his litigation representative CLAUDINE DUVAL)**

Applicant

**COMMONWEALTH OF AUSTRALIA**

Respondent

To: The Registrar

Federal Court of Australia

Victoria District Registry

Owen Dixon Commonwealth Law Courts Building

305 William Street

Melbourne VIC 3000

**REMEMBER! – Only complete this form if you object to the settlement. Don’t complete this form if you do NOT object to the settlement.**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [WRITE YOUR NAME], of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [WRITE YOUR ADDRESS], a group member in this representative proceeding, object to the proposed settlement.

**REASONS WHY I OBJECT TO THE SETTLEMENT***[Write your reasons below. If you need more room, write your reasons on another piece of paper and staple it or attach it to this form.]*  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**OTHER DOCUMENTS**If you want to include other documents about why you object to the settlement, attach them to this form.

**REMEMBER! – Only sign and return this form if you object to the settlement. DON’T sign and return this form if you do NOT object to the settlement.**

[Write the **DATE** here]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Write your **SIGNATURE** here]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Write your **NAME** here]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_