

Proposed settlement notice

This notice is important.



Don't worry.

You haven't done anything wrong.

This notice has information that may be important to you.



This notice is about a legal case that you might be a part of.



This case may now be settled out of court.



We explain what this may mean for you.



We have sent a few notices that look similar to this one in the past.

However, this notice has new and different information.



This document is not legal advice.

You can get legal advice if you want to.

How to use this document



This document has been written by the Federal Court of Australia. When you see the word 'we', it means the Court.



This information is written in an easy to read way. We use pictures to explain some ideas.



Some words are written in **bold**. We explain what these words mean. There is a list of these words on page 24.

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



- a family member or guardian
- an advocate – someone who can speak up for you
- someone else you can trust to help you make important decisions.

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Have you heard of the BSWAT?



BSWAT stands for **Business Services Wage Assessment Tool**.



It's a tool that was used to work out the wages of some people who worked in Australian Disability Enterprises – or ADEs for short.



ADEs are workplaces that support people with disability.



You might work in an ADE.

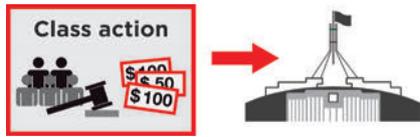


And your wages might have been worked out using the BSWAT.



You can ask your boss or manager about this.

What is the class action?



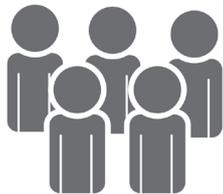
In 2013, a man named Tyson Duval-Comrie started a legal case against the Australian Government about the BSWAT.



This legal case is a **class action**.



A class action is a case started in court by 1 person for a group of people who have the same problems.



These people are called **group members**.



A class action can also be called a **representative proceeding**.



Tyson is a supported employee with an intellectual disability.



He works for an ADE.



And he was paid with the BSWAT.



Tyson started the class action against the Australian Government.

They own the BSWAT.



Tyson has said to the Court that:

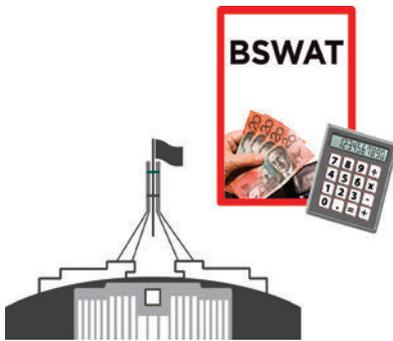
- Under the BSWAT, people with an intellectual disability are paid less for the same work than people without an intellectual disability.



- This is not fair. In the law, this is called **disability discrimination** and it is not allowed to happen.



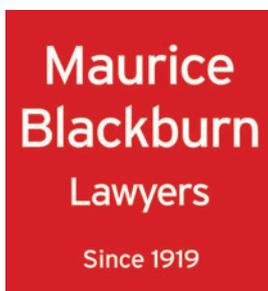
- Other people like him should get more money because the BSWAT was used to work out their wages.



The Government does not agree with Tyson.

The Government has told the Court that they think:

- The BSWAT was a fair way of working out wages for people with intellectual disability working at ADEs.
- It was not disability discrimination.



Tyson's lawyers in this class action are Maurice Blackburn Lawyers.

Are you in the class action?



We are sending this notice to you because you might be in the class action.

You are a group member in this class action if:



- you were working in an ADE on or before 22 October 2013

and



- you have an intellectual disability

and



- your wage was worked out using the BSWAT.



Some people told us that they didn't want to stay in the class action.

This process was called **opting out**.



The time for opting out has passed.

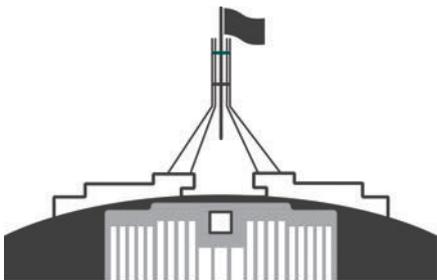


Our records show that you have not opted out of the class action. That's why we're sending you this notice.

What is the BSWAT Payment Scheme?



You may have heard of the BSWAT Payment Scheme. We usually call this 'the scheme'.



The Australian Government set up the scheme.



They did this so that they could make payments to some people who were paid with the BSWAT.

Settling the class action



Recently, Tyson and the Australian Government came to an agreement about what should happen in the class action.



Together, they decided to settle Tyson's case out of court.



This means that they won't ask the court to decide who should win the case.

This is called a **settlement**.

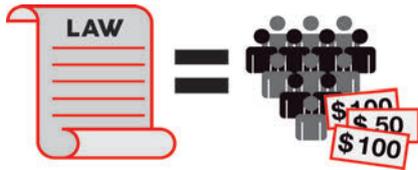


Tyson and the Government have agreed to several things in the settlement.



We summarise those things here.

If you would like to read all of the things that were agreed to, you can read the Deed of Settlement. We explain where to get this document on page 21.



Tyson and the Government agreed that the Government would try to change the law so that people will get more money from the BSWAT Payment Scheme.



The changes to the law have recently been passed in the Parliament.



Now, people will get 70% of the money that was claimed in the class action.

Before the law was changed, they would have received 50%.

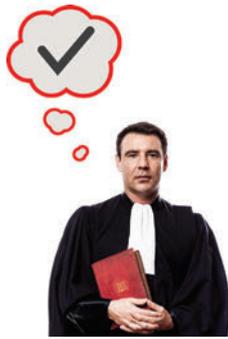


People now also have more time to register for the BSWAT Payment Scheme.



Now that the law has been changed,

Tyson and the Government agree that the class action should end.



The judge still needs to agree with this settlement.



If the judge agrees with the settlement, the class action will end.



Group members will be able to register and apply to the BSWAT Payment Scheme to get a payment. This will be the only way to get a payment.



Group members won't be able to take part in any other legal action about the BSWAT.



This may affect your legal rights.

You may like to get legal advice about this.

We explain how to do this on page 22.

Who can apply for a payment?



All group members can register and apply to the scheme for a payment.



You can find out more about the scheme – and register – at the following website:

www.dss.gov.au/bswat-payment-scheme



You may have already registered for the scheme.



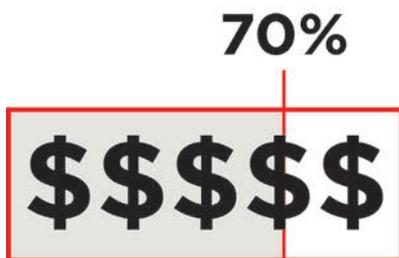
If so, that's ok.



However, if you've already received money from a court case about the BSWAT, you won't be able to take part in the scheme.



Instead, the Government will make a separate payment to any group members who have already received money from another court case.



This payment won't be more than the 70% that others will receive.

What do you think?



Do you agree with the settlement?

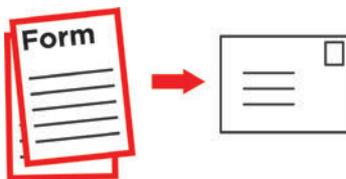


If you agree, you don't have to do anything at the moment. If the judge agrees with the settlement, we will send you another notice explaining what to do next.



If you don't agree to the settlement, you can tell the judge. We call this '**objecting**'.

There are 2 ways to do this:



1. You can fill out a form and post it to the judge.



2. You can attend a special session of the court and talk to the judge in person.

Filling out a form



If you object to the settlement, you can fill in the form at the end of this notice.

You don't have to fill in the form if you don't want to.



You need to send the form to the judge by 5 pm on 29 July 2016.



If you want to send the judge any other documents about why you don't agree with the settlement, you can attach them to the form.



But remember: you only need to fill out the form if you object to the settlement.

If you agree with the settlement, you don't have to do anything at the moment.

Attending a hearing



A hearing is a special session of the court.



At the hearing, the judge will:

- listen to what people think about the settlement



- decide whether it is fair or not.



Tyson's lawyers and the Government will be at the hearing.



You can come to the hearing if you want to.

But you don't have to come.



The hearing will be at the Owen Dixon Commonwealth Law Courts Building, on the corner of William and La Trobe Streets, Melbourne, Victoria.



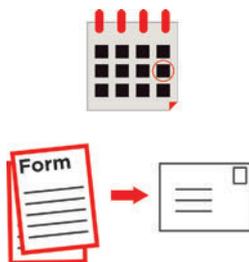
The date of the hearing is 30 August 2016.



The hearing will start at 10.15 am.



Not everyone will be able to talk at the hearing. People who send the form on pages 27 and 28 will have a chance to talk.



So, you may like to send the form in on time and have a chance to talk.



Or, you can ask the judge on the day for a chance to talk. He or she might say this is ok.

What if you can't understand or need help?

If you do not understand this notice, or need help filling out the form on page 27 and 28, you should show it to:



- a family member or guardian
- an advocate
- someone else you can trust to help you make important decisions.



If you needed help, you might need a **next friend** or **committee** to sign the form for you, or to help you at the hearing if you want to speak to the judge about the settlement.



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.



A person under 18 years cannot sign the form and will need a next friend or a committee to sign for them.

Would you like more information?



If you would like more information about the class action you can find documents for this case on the Federal Court website at:

www.fedcourt.gov.au/classactions



On this website, you will find a document called the 'Deed of Settlement'.

This document explains all things that have been agreed to in the settlement.



Or, you can contact Maurice Blackburn.



1800 645 990



www.mauriceblackburn.com.au/BSWAT

Where can you get legal advice or support?



You might like to talk to a lawyer about this settlement.



Or, you might ask someone like an advocate to speak up for you.



If you want to attend the hearing, you might like a lawyer or an advocate to go with you, or to speak up for you.



Most lawyers will charge a fee to do this.



Some lawyers and advocates are free, or they charge a reduced fee for their services.

You can find a lawyer through this website:



www.fedcourt.gov.au/legalhelp

And you can find an advocate through this website:



finder.dss.gov.au/disability/ndap/



Remember:

- If you agree with the settlement – **do nothing**
- If you object to the settlement – **complete and return the form on pages 27 and 28.**

Word list



Australian Disability Enterprises

Australian Disability Enterprises provide work and support for people with disability. They are often called ADEs.



Business Services Wage Assessment Tool

A tool that was used to work out how much someone with an intellectual disability should be paid to do their job.



Committee

A group of people who help you in a legal case if you have trouble understanding things about the legal case.



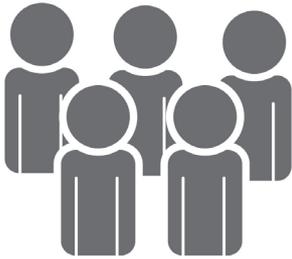
Class action

A case started in court by one person for a group of people with the same problems. It is also sometimes known as a representative proceeding.



Disability discrimination

When someone is treated unfairly because of their disability.



Group members

A group of people who have the same problems and are part of a class action.



Next friend

Someone who helps you in a legal case if you have trouble understanding things about the legal case.



Objecting

Saying that you don't agree with the settlement.



Opting out

Choosing not to take part in the class action.



Settlement

When two people who have taken a case to court agree on a solution to the problem outside of court.



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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.

