



Australian Government

About the BSWAT Payment Scheme:

Information for Australian Disability Enterprises



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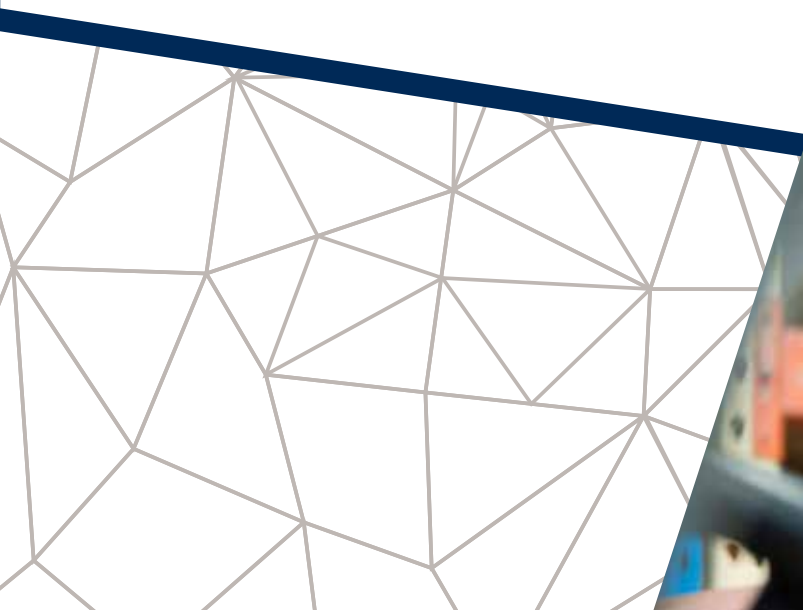
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What's in this document?

About this document	4
Important update	5
What is the BSWAT Payment Scheme?	6
What role do ADEs play?	9
Who can use the scheme?	13
How does the scheme work?	15
Asking for a review	21
Using a nominee	23
Legal proceedings	25
Questions that ADEs may have	29
Questions that supported employees may have	31
Where can you get more information?	34





About this document

This document has been written by the Australian Government to explain the BSWAT Payment Scheme (the scheme) and the role of Australian Disability Enterprise (ADE) staff and management in the process.

As ADE managers and staff, your role is to help your supported employees if they need it to find information about the BSWAT Payment Scheme and direct them to people who can provide them with support and advice.

Acknowledgments

This document has been written by the Australian Government.

Editing and design by the Information Access Group.

Specialist communication consultation by Dr Sheridan Forster.

Important update

On 16 December 2015, the Minister for Social Services, the Hon Christian Porter MP, made an announcement.

The Government is currently in the process of seeking to change the law about the BSWAT Payment Scheme. Under the current law, payments are half (50 per cent) of the difference between what a person was paid and what they would have been paid if their wages had been assessed using only the productivity component of the BSWAT. If the law is amended, this payment will be increased to 70 per cent.

We will update this resource when the law is amended. For now, the information remains useful and relevant. The steps for registering and applying for a payment haven't changed. However, if the changes to the law are passed in Parliament, people will have more time to register and apply as the deadlines will be extended by 12 months.

Further, under the proposed changes to the law:

- people who accept an offer under the scheme before the law has passed will not be disadvantaged – they will receive a top-up payment if the changes to the law are passed
- changes may be made to the requirement that all people receive legal advice before they can accept an offer.

If you'd like more information about these changes, please visit our website at www.dss.gov.au/changes-to-the-BSWAT-Payment-Scheme



What is the BSWAT Payment Scheme?

BSWAT stands for the Business Services Wage Assessment Tool. This tool was used to work out the wages of supported employees who work in Australian Disability Enterprises (ADEs).

Many ADEs are familiar with the BSWAT and understand that it was used to work out the wages of supported employees based on two different assessments, productivity and competency.

The productivity assessment looked at how much work a person did during a period of time. The competency assessment looked at how well a person understood and did their job, or parts of their job.

The results of these two assessments were then combined to give the person a score. And the score was used to work out the person's wages.

The scheme was established by the Australian Government following the Federal Court finding in December 2012 that two supported employees with intellectual disability were unlawfully discriminated against by their employing ADEs because their wages were worked out based on BSWAT assessments. In particular, the Court found that the use of the competency assessment to assess the wages of those two employees was discriminatory.

Since the Australian Government owns the BSWAT and had promoted its use by the ADEs, the Court also found that the Australian Government unlawfully discriminated against those two supported employees.

Under the *Business Services Wage Assessment Tool (BSWAT) Payment Scheme Act 2015*, the scheme will offer eligible supported employees a one-off payment. The scheme is only for people who had their prorata or training wages worked out using the BSWAT and have an intellectual impairment. You can find more information about eligibility on page 13.

The Australian Government Department of Social Services (the Department) will run the scheme's application and payment process.

The Department can answer any questions you have about the scheme through the BSWAT Payment Scheme information line on 1800 799 515 or email BSWATPayments@dss.gov.au

How will the payments be calculated?

In order to calculate a payment amount, the Department will review wage records held by the Government. However, when required the Department will request ADEs to provide information on a participant's wages and conditions.

The Department will look at how much a person was paid in wages. Then they will subtract that amount from the amount that would have been paid had the BSWAT productivity assessment only been used to work out the wage.

The scheme will offer the person 50 per cent of that amount. If the changes to the law about the scheme are passed by Parliament (see page 27):

- the scheme will pay eligible people 70 per cent of that difference, and
- if a person accepts an offer of 50 per cent before the changes are passed, they will subsequently receive top-up payments so they get the full 70 per cent.

Indexation will be applied and the final payment amount may be higher to account for the way cost of living changes over time.

How quickly will payments be made?

Payments will be made quickly and directly to the participant, following their successful application and their acceptance of a payment offer.

Will a participant have to pay tax on a payment amount?

The participant may not have to pay tax on their payment. If they do have to pay additional tax, the scheme will pay them an extra amount with their payment to help meet the cost. Also, if tax is to be paid, the lump sum amount will be taxed over the period the wages were earned, meaning tax owed will be minimised.



Will a payment amount affect a participant's Disability Support Pension?

A payment under the scheme is unlikely to affect a participant's Disability Support Pension. Most people will continue to receive the Disability Support Pension in the usual way. Some people will need to have an asset test.

Other social security payments

If someone accepts a payment under the scheme it will not affect any social security payments received by their parents or carers. However, if an employee pays child support or receives Family Tax Benefit (FTB) their legal advisor or financial counsellor will direct them to talk to the Department of Human Services as there may be an implication for their payment.

More information about the role of the legal advisors and financial counsellors is on page 18.





What role do ADEs play?

There are five important ways in which ADEs can support the implementation of the scheme:

1. Hosting information sessions for supported employees, their families and advocates about the scheme.
2. Providing information on current or past wages to employees or their nominees.
3. Providing specific information about wages requested by the Department.
4. Assisting supported employees, their families and supporters to find information.
5. Understanding who can and can't be appointed as a nominee for the scheme.

It's important to understand that you are not expected to explain the details of the scheme to supported employees, and their families and carers.

The scheme operates in accordance with legislation, and has very specific requirements and timeframes for applicants. The scheme evaluates each applicant's eligibility and their payment amount based on their individual circumstances.

For these reasons, it is not recommended that ADE staff try to answer the more complex questions that supported employees, their families and carers have about the scheme.

Instead, an important role for ADE staff and management is to guide people in the right direction to access the information and support they need by referring people to the appropriate information sources, and supporting them to access the information.

For example, you could assist a supported employee to call the BSWAT Payment Scheme information line or you could send a question to the BSWAT mailbox on someone's behalf.

The available information sources are listed on page 34.

1. Hosting information sessions for supported employees, their families and advocates about the scheme

The Department proposes to hold a range of information sessions. These sessions will target different audiences:

- supported employees
- families and carers
- advocacy organisations
- other interested stakeholders.

During the information sessions, the scheme will be explained, including who can use it, the relevant legal options and the steps to take part. All of this will be done in a format suitable to the audience.

The Department may ask you to host these sessions in your town or region. You will not need to organise the delivery of the information, or the catering, but the Department will appreciate your assistance with finding a suitable venue and transport for supported employees if applicable.

The Department may discuss with you your organisation's ability to host sessions, ask you to distribute information associated with the sessions, and liaise with you on logistics. Your organisation's support will be greatly appreciated.

2. Providing information on current or past wages to employees or their nominees

Wherever possible, the Department will use information already on file to work out the payment offer for each eligible person. However, in some instances, a supported employee or their nominee may ask you for information about their current wage, or their wage history. Your help in providing this information will assist the employee and their nominee to make a decision about the offer they receive.



3. Providing specific information about wages requested by the Department

If the Department requests information from you in relation to the scheme, you are legally required to provide this information.

Under the *Business Services Wage Assessment Tool (BSWAT) Payment Scheme Act 2015*, the Department can request information or documents that the Department considers relevant to determining an application for the scheme.

Under the scheme, there are penalties for non-compliance with these kinds of requests from the Department.

ADE managers and staff should familiarise themselves with this requirement and be prepared to provide information about an individual's wages as requested.

4. Assisting supported employees, their families and supporters to find information

Because there are important dates and deadlines in the scheme, it will be helpful if you can quickly direct supported employees, their families and supporters to the available resources.

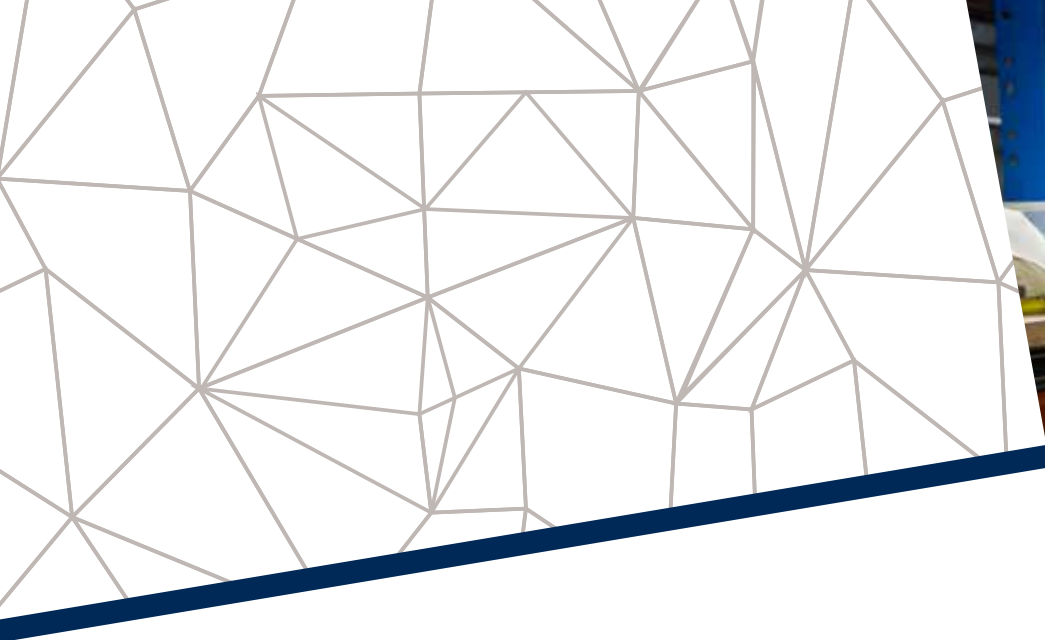
People can:

- phone the BSWAT Payment Scheme information line 1800 799 515
- email BSWATPayments@dss.gov.au
- visit our website at www.dss.gov.au/bswat-payment-scheme

The following documents are available online at

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

- *About the BSWAT Payment Scheme: Information for supported employees – Easy Read Handbook*
- *About the BSWAT Payment Scheme – Information for families, advocates and nominees*
- *About the BSWAT Payment Scheme – Information for legal advisors*
- *About the BSWAT Payment Scheme – Information for financial counsellors.*



5. Understanding who can and can't be appointed as a nominee for the scheme

The *Business Services Wage Assessment Tool (BSWAT) Payment Scheme Rules 2015* include certain situations where a person must not be appointed as a nominee for the scheme.

These situations include where a person is a recipient of a grant made under Part II of the *Disability Services Act 1986* or an employee of such a recipient. This requirement means that a person who manages or is employed by an ADE is unable to be a nominee for a scheme participant except in certain circumstances. The exceptions include:

- if the person is a relative or family member of the participant
- if the person is a court-appointed decision-maker for the participant
- if the Department determines that there are circumstances that make the appointment appropriate for the participant.

More information about nominees and their role has been provided on page 23.



Who can use the scheme?

To be eligible for the scheme, a participant must have, for at least one day in the period starting on 1 January 2004 and ending on 28 May 2014:

- an intellectual impairment
AND
- worked in an ADE
AND
- had their wages worked out using the BSWAT or been paid a training wage while waiting for a BSWAT assessment to be completed
AND
- received employment support from the ADE.

A participant must also have:

- required ongoing daily support in the workplace to maintain their employment in the ADE
AND
- not accepted an amount of money in settlement of a claim made relating to the use of the BSWAT to assess the person's wage (or a court must not have ordered payment of an amount of money to the person in connection with such a claim).

For the purposes of the scheme, intellectual impairment means a person who has:

- intellectual disability
- autism spectrum disorder
- dementia
- acquired brain injury.

To receive a payment offer, participants must follow the steps of the process and meet all of the deadlines.

When the Department receives an application, it will carefully review all the information provided by the participant.

The Department will work out if the participant is eligible for the payment scheme according to the criteria set out in the legislation.

If the person **is** eligible, the Department will then determine a payment offer.

If the person **is not** eligible, the Department will write to the applicant to advise that they are not eligible for the scheme, and set out the reasons for this decision.

If the participant is not happy with the decision, they can ask for a review. More information about the review process is on page 21.

Examples

Emma can take part in the scheme

Emma is a 38-year-old woman with intellectual impairment. Since 1 October 2005, she has worked at her local ADE as a packaging assistant. The Australian Government funds her local ADE to support Emma in her daily work activities. In March 2006, Emma had her first BSWAT assessment to determine her prorata wage. She had two further BSWAT assessments in February 2009 and January 2012. Emma's minimum wage was based on these assessments. Emma is **eligible** for the scheme.

Mark cannot take part in the scheme

Mark has autism and has worked in an ADE as a warehouse assistant since 2007. The Australian Government funds Mark's ADE to support him in his daily work activities. His wages were worked out using a tool called the Supported Wage System. Mark is **not eligible** for the scheme because his wages were not assessed using the BSWAT.



How does the scheme work?

Important dates

Activity	Date
Registrations	By 30 April 2016
Applications	From 1 July 2015 to 30 November 2016
Acceptances	By 31 December 2017
Offers end (unless under review)	31 August 2017
All offers and refusals end	30 November 2017
Extensions	End on or before 31 December 2017

If the changes to the law about the scheme are passed by Parliament (see page 27), the important dates referred to above will be extended by 12 months.

Registration

Participants must register to take part in the scheme. If they don't register they cannot apply, even if they may be eligible.

Once someone has registered, the Department will send them more information and forms to fill in if they want to apply for a payment offer from the scheme.

Registering does **not** mean that a participant:

- will receive a payment
- will be prevented from being part of legal proceedings about the BSWAT, including the class action court case.

How to register

Participants can register by:

- phoning the BSWAT Hotline on 1800 880 052
- emailing BSWATPayments@dss.gov.au
- visiting the website at www.bswat.dss.gov.au

Registrations are due by 30 April 2016. If the changes to the law about the scheme are passed by Parliament (see page 27), this date will be extended by 12 months.

Application

To receive an offer of payment, a participant will need to apply and provide some information about their employment to the Department.

An application form will be sent out to supported employees after they register.

The application form asks for information such as a participant's:

- contact details
- details of employment during the last financial year
- annual income, if known
- nominee details, if the participant needs or requests a nominee.

If the participant needs or requests a nominee, the following information will need to be provided on the application form:

- whether or not a person has agreed to be the participant's nominee for the BSWAT Payment Scheme
- that person's relationship to the participant and their contact details.

Participants can get information on the application process by:

- phoning the BSWAT Payment Scheme information line on 1800 799 515
- emailing BSWATPayments@dss.gov.au
- visiting the website at www.dss.gov.au/bswat-payment-scheme

Applications are due by 30 November 2016. If the changes to the law about the scheme are passed by Parliament (see page 27), this date will be extended by 12 months.

Receiving a payment offer

If a person is eligible for the scheme, the Department will determine a payment amount for that person. To calculate a payment amount, the Department will review the available wage records the Government holds. In certain situations, the Department may request an ADE to provide specific wage records to assist the Department to determine a participant's payment amount.

The participant will receive a letter with the Department's decision. This is called the Letter of Offer.

Some people will be told that they will **not** receive a payment because the actual wage they received was more than what they would have received if only the productivity component of the BSWAT was used to assess their wages.

If the participant is not happy with the decision, they can ask for a review. The participant can also ask for a review of the payment amount if they are unhappy with the payment offer.

More information about asking for a review is on page 21.



Legal advice and financial counselling

To make sure the rights of participants are protected, it is important that independent legal advice and financial counselling about the scheme is sought before people make a decision to accept a payment offer.

Payment for legal advisors and financial counsellors is funded through the scheme (although there are limits on this funding, being a flat fee of \$850 (GST incl) for legal advice and a flat fee of \$435 (GST incl) for financial counselling).

Participants can choose a legal advisor or financial counsellor from a list provided on the Department's website at www.dss.gov.au/bswat-advisors-counsellors

All those listed are independent from the Government. Participants can also use a legal advisor or financial counsellor of their own choosing.

When participants and their nominees get independent legal advice and financial counselling sessions the legal advisor and financial counsellor will sign the certificates. The legal advisor and financial counsellor need to include their certificates in the request for payment that will be made using the online portal. After the request for payment is complete, the Department will then pay the legal advisor and financial counsellor.

The participant or their nominee needs to sign the acceptance form and send to the Department by the deadline written on their Letter of Offer, before the Department can make a payment.

Participants who receive an offer of \$1,000 or less do not have to seek financial counselling and they (or their nominee) can sign the Financial Counselling Certificate before returning it to the Department. However, free financial counselling is still available to them like any other participant in the scheme.

If a participant's nominee for the scheme is also the person's financial guardian or administrator under state or territory law, the guardian is able to sign the Financial Counselling Certificate. However, if they wish to, they can still attend a financial counselling session with the participant.

Currently, all participants must receive legal advice before they can accept a payment offer. However, if the changes to the law about the scheme are passed (see page 27), that requirement may change.

Participants can ask for more time to return the certificates to the Department by calling the BSWAT Payment Scheme information line on 1800 799 515 or emailing BSWATPayments@dss.gov.au They will need to do this by the date on the Letter of Offer.

If a supported employee, their family or nominee would like further information about the legal advice or financial counselling please direct them to the Department website www.dss.gov.au/bswat-payment-scheme or the BSWAT Payment Scheme information line on 1800 799 515.

Accepting a payment offer

If a participant is happy with their payment offer, they need to formally accept the offer by filling in the acceptance form and sending it back to the Department.

Once the Department has received the acceptance form and certificates, the payment offer will be paid directly into the participant's bank account. The payment will be made as soon as possible after the Department receives the acceptance information.

Accepting an offer from the scheme means that the participant can no longer take part in any legal proceedings about the BSWAT. There is important information about accepting payment offers for group members in the class action on page 28. Further information about the class action is available on page 25.

Declining a payment offer

If a participant decides that they do **not** want to accept the payment offer, they can decline it.

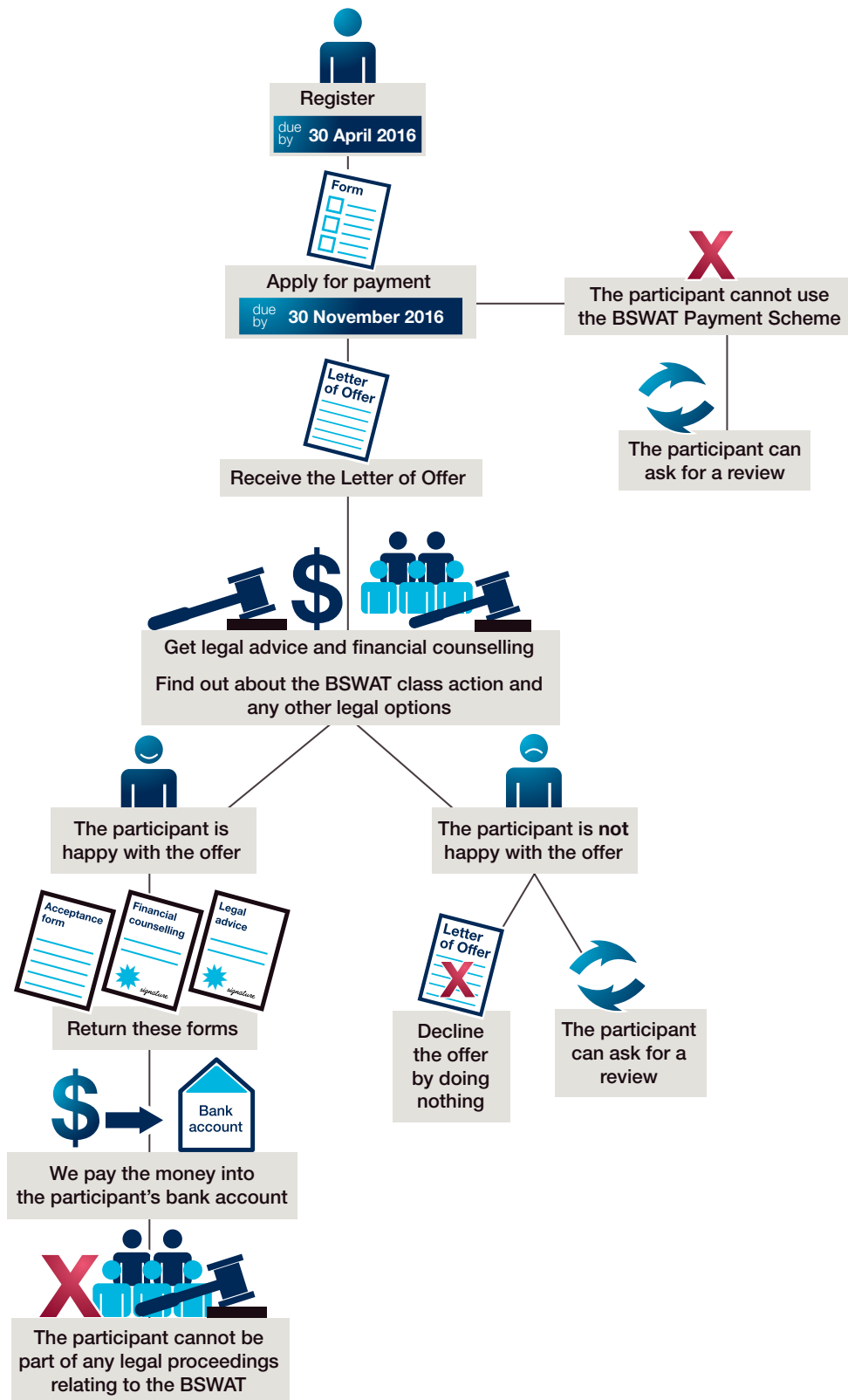
They don't need to do anything to decline the offer. If the Department does not receive their acceptance information by the due date, the Department will assume that the participant has declined the offer.

If a participant declines an offer from the scheme they will still have the right to take part in other legal action about the BSWAT. We explain other legal proceedings in more detail on page 25.



A summary of the scheme process

If the changes to the law about the scheme are passed by Parliament (see page 27), these dates will be extended by 12 months.



Asking for a review

If a participant is not happy with a decision that has been made about the scheme they can ask for a review. A participant can access an internal and external review process, and we explain these processes below.

They can ask for a review about:

- the decision that they are not eligible for the scheme
- the payment amount they have been offered.

If a participant asks for a review after being told they are not eligible for the scheme, the Department will look at their information again. The request for a review of this decision must take place within 21 days of the decision being made.

If a participant is not happy with the amount of money that they have been offered they must ask for a review before the acceptance date on their Letter of Offer. A participant cannot ask for a review after an offer has been accepted.

To ask for a review or to seek further information about reviews, the participant can contact the Department on the BSWAT Payment Scheme information line on 1800 799 515 or email BSWATPayments@dss.gov.au

An internal review

An internal review will be carried out by the Department. The Department will look at the participant's information again.

The participant will need to provide:

- the reason they think the decision wasn't right
- paperwork that supports their case
- if it is a review of the amount they have been offered, the reference number on their Letter of Offer.

The Department will then review the information as soon as possible and write to them about the results of the review.

If the participant is still not happy with the decision they can ask for an external review.



An external review

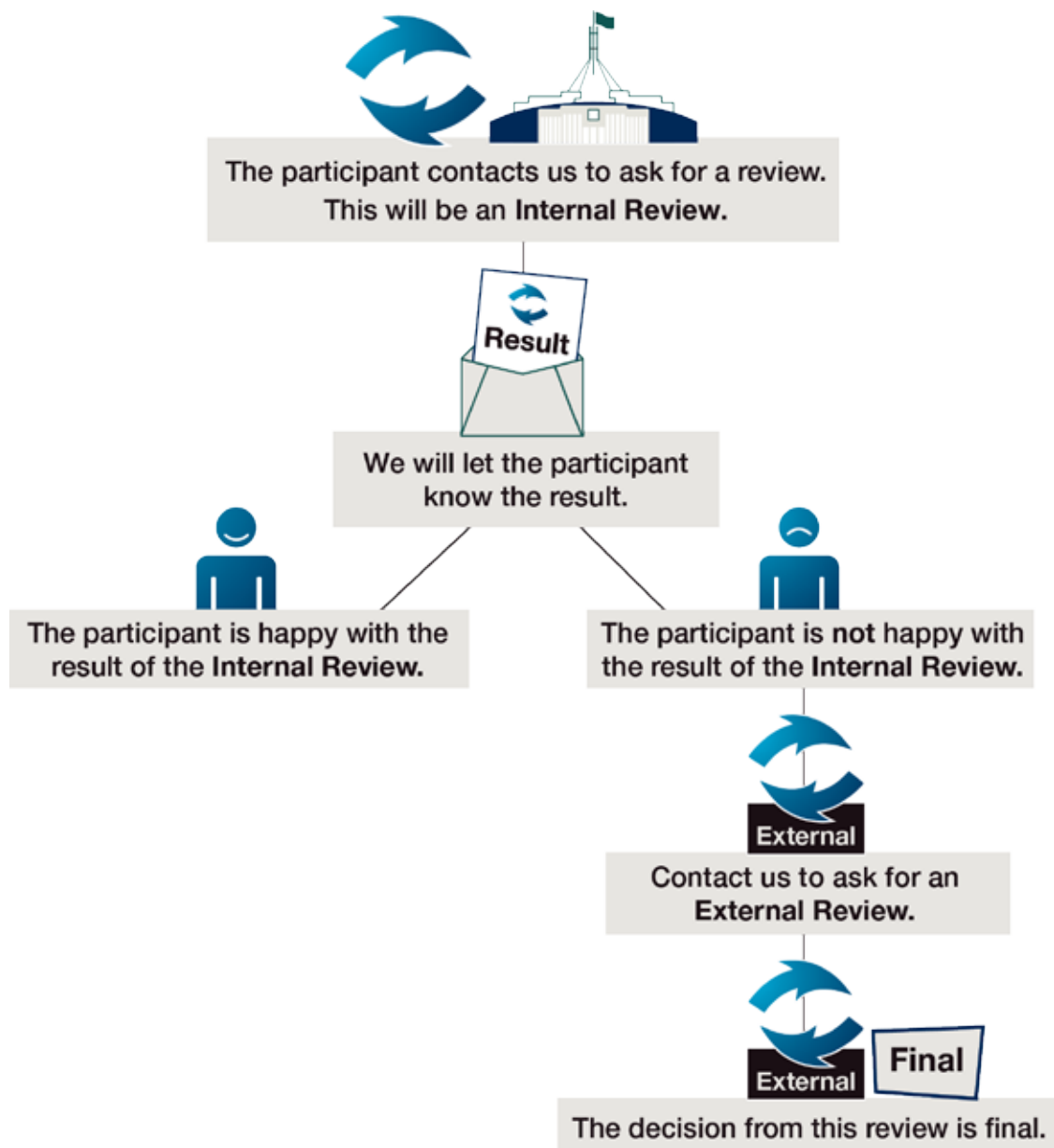
An external review will be done by someone who is independent from the Department or the Government.

This person can be a retired judge or a senior lawyer with extensive experience. They will review all the information that the participant has provided and the decisions that have been made.

The external reviewer will then make a decision about what should be done next and a letter will be sent to the participant with the results of the review.

This will be the final decision. There will be no more reviews after this decision.

A summary of the review process





Using a nominee

For the scheme, a nominee is a person who is 18 years of age or older. They must have agreed to be appointed to make decisions about the scheme for the participant and they must be able to fulfil the duties and responsibilities of a nominee.

A nominee has a duty to find out and understand what the views of the participant are, and to act according to the participant's preferences.

Under the *Business Services Wage Assessment Tool (BSWAT) Payment Scheme Act 2015* and the *Business Services Wage Assessment Tool (BSWAT) Payment Scheme Rules 2015*, a nominee must promote and safeguard the participant's human rights. A nominee must act in a way that is least restrictive of those rights when making decisions relating to the scheme.

A nominee will often be a trusted relative, friend, associate or guardian of the participant.

One or more independent nominees can be appointed.

Under the Act, a nominee cannot be held criminally liable for anything done in good faith in their role as nominee, or for any act or omission of the participant.

More detailed information about the duties and responsibilities of a nominee is provided in the document titled *About the BSWAT Payment Scheme – Information for families, advocates and nominees*.

Important information on nominee appointments

A person cannot be appointed as a nominee if they are employed by:

- the Department of Social Services
- an ADE or certain advocacy organisations.

There are some exceptions to the above exclusions:

- if the person is related to the participant
- if the person has a court appointed decision making role for the participant, such as a guardian
- if the Department determines that there are circumstances that make the appointment appropriate for the participant.

More information on nominees is available on the website at

www.dss.gov.au/bswat-payment-scheme-resources or by contacting the BSWAT Payment Scheme information line on 1800 799 515.





Legal proceedings

On 20 December 2013, an ADE worker with intellectual disability, Mr Tyson Duval-Comrie, started a representative proceeding (also called a ‘class action’) against the Australian Government.

The class action is on behalf of all people with intellectual disability employed in ADEs as at or before 22 October 2013 whose wages had been assessed under BSWAT or whose wages, as at 22 October 2013, were proposed to be assessed under BSWAT.

In the past, the class action only applied to some people. The rules are different now. Now, more people are in the class action.

In the past, the class action only applied to people who were working in an ADE **on** 22 October 2013. Now, the class action may also apply to people who were working in an ADE **on or before** 22 October 2013.

A person is now automatically a ‘group member’ of the class action if they:

- have an intellectual disability
- AND
- were working in an ADE on, or before, 22 October 2013
- AND
- had their wages worked out using the BSWAT.

A person will not be a group member if they have opted out of the class action. This is a formal Court process which requires the submission of a specific form to the Federal Court by a particular date.

Original group members were given an opportunity to opt out by 11 June 2015 but that date was then extended to 16 October 2015. If a group member did not submit the specific form to the Court by 16 October 2015, they remain a group member.

People who have recently become group members as a result of the change to the rules (see above) are being given an opportunity to opt out of the class action by 23 April 2016. Those people will be sent information about the opt out process including the specific form, in February 2016.

The official name of the proceeding is Tyson Duval-Comrie v Commonwealth of Australia VID 1367 of 2013 and you can access information about the class action at:

www.comcourts.gov.au/file/Federal/P/VID1367/2013/actions

In the class action, 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.



Settlement of the class action

Mr. Duval-Comrie and the Government have recently agreed to settle the class action instead of asking the Court to decide who should win the case.

As part of the settlement, the Government has agreed to seek to change the law about the scheme so that, amongst other things, people get more money from the scheme – the proposed changes to the law are discussed below.

If the proposed changes to the law are passed by Parliament, Mr. Duval-Comrie and the Government will ask the Court to end the class action.

The Court still needs to approve the settlement. The Court will only approve the settlement and end the class action if it thinks the settlement between Mr. Duval-Comrie and the Government is fair for the group members.

If the Court thinks the settlement is fair:

- group members may get more money from the scheme
- but they won't be able to take part in any other court case about the BSWAT.

What if the law is not changed or the settlement is not approved by the Court?

If the Government does not get the law changed, or the Court does not think the settlement is fair:

- the class action will continue; and
- the Court will decide whether the BSWAT was a fair way to assess wages.

If the Court decides that using the BSWAT to work out Mr. Duval-Comrie's wages was not fair, group members may get compensation. Any compensation paid might be more or less than a payment offered through the scheme. Any compensation paid through a legal proceeding (including the class action) could be taxed and may affect the person's Disability Support Pension.

If the Court decides that using the BSWAT to work out Mr. Duval-Comrie's wages was fair, group members won't get compensation.

If the Court decides that a group member did not lose any money when their ADE used the BSWAT to work out their wage, they will not get compensation.

Important information for group members about accepting payment offers

If a group member accepts a payment offer from the scheme, they will not be able to be part of any legal proceedings about the BSWAT.

If a group member accepts a payment offer from the scheme before the class action ends, they will be automatically be excluded from the class action.

If the changes to the law about the scheme are passed by Parliament and the Court approves the settlement:

- The class action will end.
- If group members want a payment, they will need to register and apply to the scheme for a payment – as discussed above, if the Court approves the settlement, group members will not be able to be part of any other legal proceedings about the BSWAT.
- Group members will need to register by 30 April 2017, apply by 30 November 2017 and accept any payment offer from the scheme by the important dates referred to on page 15 as extended by 12 months
- The scheme will pay the increased payment of 70 per cent – see page 5.

If the changes to the law about the scheme are **not** passed by Parliament:

- The class action will continue.
- Group members will still be able to accept payment offers from the scheme so long as they have registered for the scheme by 30 April 2016, apply to the scheme by 30 November 2016 and accept any payment offer by the important dates on page 15.
- The payment offer will be the current offer of 50 per cent.
- As discussed above, if a payment offer is accepted, the group member will be automatically excluded from the class action and will not be able to be part of any other legal proceedings about the BSWAT.

OR

- Group members can decide to not accept a payment offer from the scheme and stay part of the class action where they may receive compensation if Mr Duval-Comrie wins the class action. Group members can stay in the class action if they have registered and applied for the scheme but not if they have accepted a payment offer from the scheme.



Questions that ADEs may have

Will there be an impact on our service?

There should be minimal impact on your service due to the scheme.

You may be required to:

- provide information about employment records for some of your supported employees
- host information sessions about the scheme
- direct supported employees and their family members or other supporters to the BSWAT Payment Scheme information line on 1800 799 515 or our website www.dss.gov.au/bswat-payment-scheme

Where can we refer people if they need more information?

For more information you can refer people to:

- the BSWAT Hotline on 1800 880 052
- the BSWAT Payment Scheme information line on 1800 799 515
- the website www.dss.gov.au/bswat-payment-scheme-resources
- the email address BSWATPayments@dss.gov.au

What if someone doesn't have a nominee?

If a participant doesn't have a scheme nominee and you think they need one to help them to understand and make a decision about the scheme, you can suggest the supported employee or their family ask the Department to appoint a nominee.

A participant can nominate a person to be their nominee when they apply for the scheme or at any time during the process by contacting the BSWAT Payment Scheme information line on 1800 799 515.

Do we need to manage nominee arrangements?

No, this is not part of your role. The Department manages nominee appointments and cancellations.

If you have concerns about a nominee appointment you can advise the Department on the BSWAT Payments information line on 1800 799 515 or via email BSWATPayments@dss.gov.au

What if a participant changes their mind?

Participants can change their mind about applying for the scheme or about accepting or declining an offer. They just need to make their final decisions or take the action they need to by certain dates.

All the important dates are listed on page 15.

Participants need to accept their offer by the date included in their Letter of Offer. They won't be able to change their mind about accepting or declining the offer after this date.

What if a participant is not offered a payment through the scheme?

If a participant is not offered a payment through the scheme, or if they decide not to accept a payment that is offered to them, they can still take part in other legal proceedings about the BSWAT. There's more information about other legal proceedings on page 25.

What if a participant is not happy with a decision?

If a participant is not happy with a decision that has been made, they may ask for a review. This may be because they are not happy with their offer, or they are not happy about being ineligible for the scheme. We explain this in more detail on page 21.

What if we don't know the answer to a question?

If you don't know the answer to questions from one of your employees or their families, please refer them to the Department or to the resources about the scheme on our website

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

What if someone dies during the process?

If an employee dies after they have made an application for the scheme, any payment amount resulting from the application would be paid to the deceased person's estate.

Under the changes to the law, a deceased estate can apply to the scheme. The changes will allow a deceased person's legal representative to engage with the scheme on their behalf.



Questions that supported employees may have

Your supported employees may ask you questions about the scheme. The following questions and answers should help you to answer their queries.

Can you help me understand the BSWAT Payment Scheme?

Because the role of the ADE is not one of information provision or to explain the scheme, it will be important to point people in the right direction for the information they need.

There is comprehensive information about who can offer help and advice in the document titled *About the BSWAT Payment Scheme: Information for supported employees – Easy Read Handbook*.

The information sessions will also help supported employees, and their families and supporters, understand the scheme.

Should I register and/or apply for the scheme?

If one of your supported employees asks you directly whether they should register and/or apply for the scheme, you should point them in the direction of people that can give them advice and support.

You can suggest they get help from:

- someone they already use as a nominee
- a family member
- an advocate.

You can also suggest they, or their supporters find more information by:

- contacting the BSWAT Hotline on 1800 880 052
- visiting the website www.dss.gov.au/bswat-payment-scheme-resources
- emailing BSWATPayments@dss.gov.au

Should I accept my payment offer?

If one of your supported employees asks you directly whether they should accept the payment offer they've been made, you should point them in the direction of people that can give them advice and support. You can suggest they get help from:

- their nominee
- a legal advisor – there is a list available on our website, or they can use another legal advisor of their choosing
- a financial counsellor – there is a list available on our website, or they can use another financial counsellor of their choosing.

If someone is going to accept a payment offer from the scheme, they can access funded, independent and professional advice from a legal advisor and financial counsellor.

You can also suggest they, or their supporters find more information by:

- contacting the BSWAT Payment Scheme information line on 1800 799 515
- visiting the website www.dss.gov.au/bswat-payment-scheme-resources
- emailing BSWATPayments@dss.gov.au

What is a nominee?

For the scheme, a nominee is a person who is 18 years of age or older. They must have agreed to be appointed to make decisions about the scheme for the participant.

A nominee will often be a trusted relative, friend, associate or guardian of the participant.

A nominee must:

- ask the participant what they think
- ask the participant what they want and what their preference is
- help the participant to make the decision that is best for them.

How do I get a nominee?

If a supported employee would like a nominee but doesn't have one, they should contact the Department.

A supported employee can nominate a person to be their nominee when they apply for the scheme, or at any time during the process. They can do this by contacting the BSWAT Payment Scheme information line on 1800 799 515 or email bswatpayments@dss.gov.au.

What will happen to my wages?

Taking part in the scheme will **not** affect an employee's job or current wages. They do not have to worry about losing their job if they take part in the scheme.

What will happen to my Disability Support Pension?

A payment from the scheme is unlikely to affect someone's Disability Support Pension.





Where can you get more information?

If you or your supported employees, their families and supporters need more information about the scheme please contact the Department by:

- phoning the BSWAT Hotline on 1800 880 052
- phoning the BSWAT Payment Scheme information line on 1800 799 515
- emailing BSWATPayments@dss.gov.au
- visiting the website at www.dss.gov.au/bswat-payment-scheme-resources

We have created a number of documents about the scheme for different audiences.

The titles are:

- *About the BSWAT Payment Scheme: Information for supported employees – Easy Read Handbook*
- *About the BSWAT Payment Scheme: Information for Australian Disability Enterprises (ADEs)*
- *About the BSWAT Payment Scheme: Information for families, advocates and nominees*
- *About the BSWAT Payment Scheme: Information for legal advisors and financial counsellors – Helping people with intellectual impairment to make informed decisions about the scheme*
- *About the BSWAT Payment Scheme: Information for financial counsellors*
- *About the BSWAT Payment Scheme: Information for legal advisors*

The comprehensive Easy Read handbook is written in a way that is very easy to understand and uses images to help explain the information.

