



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD888/2021

**IN THE MATTER OF DISABILITY SERVICES AUSTRALIA LIMITED
(ADMINISTRATORS APPOINTED) ACN 002 507 655 (AND THE OTHER
COMPANIES NAMED IN THE SCHEDULE)**

**GAYLE DICKERSON, PETER JAMES GOTHARD AND JAMES DOUGLAS
DAMPNEY IN THEIR CAPACITIES AS JOINT AND SEVERAL
ADMINISTRATORS OF DISABILITY SERVICES AUSTRALIA LIMITED
(ADMINISTRATORS APPOINTED) ACN 002 507 655 (AND THE OTHER
COMPANIES NAMED IN THE SCHEDULE) and others named in the schedule**
Plaintiff

ORDER

JUDGE: JUSTICE HALLEY

DATE OF ORDER: 01 September 2021

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Return of Amended Originating Process

1. The Amended Originating Process be made returnable instanter.

First meeting of creditors to be held concurrently

2. Pursuant to section 447A(1) of the *Corporations Act 2001 (Cth)* (**Act**), Part 5.3A of the Act is to operate such that the first meeting of creditors of each of the Second to Fourth Plaintiffs (together, the **Companies**) held pursuant to section 436E of the Act (**First Meeting of Creditors**) may be held concurrently.

Notice to Participant Employee Creditors of First Meeting of Creditors

3. Pursuant to section 447A(1) of the Act, for the purpose of giving notice of the First Meeting of Creditors to the approximately 500 employee creditors with a disability (**Participant Employee Creditors**) where the First Plaintiffs determine that the provision of written notice may be distressing to Participant Employee Creditors:



- a. notice will be validly provided to Participant Employee Creditors if the First Plaintiffs take reasonable steps to communicate:
 - i. the time, date and place for the First Meeting of Creditors;
 - ii. the purpose for which the First Meeting of Creditors is being convened;
 - iii. the time and date by which proofs of debt, and proxies for the meeting, are to be submitted; and
 - iv. the name and contact details of the administrator,

to the Participant Employee Creditors or their guardian, carer, family member or decision maker who provides support to them (together, the **Decision Makers**), in accordance with the Communications Plan annexed to these orders and marked “A” (**Communications Plan**); and
- b. the notice requirements prescribed in section 436E(3) of the Act and section 75-225(2) of the *Insolvency Practice Rules (Corporations) 2016* (Cth) (**Insolvency Practice Rules**) are otherwise dispensed with.

Notices to creditors (other than of first meeting of creditors)

4. Pursuant to section 447A(1) of the Act, if pursuant to Part 5.3A of the Act, Part 5.3A of the *Corporations Regulations 2001* (Cth), the *Insolvency Practice Schedule* set out in Schedule 2 of the Act (**IPS**), or the *Insolvency Practice Rules*, the First Plaintiffs are required to provide any other notification to creditors of the Companies during the administration of the Companies, the applicable notice requirements will be satisfied if the First Plaintiffs give such notice by:
 - a. where the First Plaintiffs have an email address for a creditor (other than a Participating Employee Creditor), notifying each such creditor of the relevant matter via email;



- b. where the First Plaintiffs do not have an email address for a creditor but have a postal address for that creditor (other than a Participating Employee Creditor), notifying each such creditor in writing of the relevant matter via post;
- c. publishing notice of the relevant matter on the website maintained by the First Plaintiffs' Firm;
- d. if the creditor is a Participant Employee Creditor, where the First Plaintiffs determine that the provision of written notice may be harmful to Participant Employee Creditor, by taking reasonable steps to communicate with the Participant Employee Creditor or their Decision Maker in the manner set out in the Communications Plan; and
- e. to the extent the matter relates to a meeting covered by section 75-40(4) of the Insolvency Practice Rules, publishing notice of the meeting on the ASIC published notices website.

Bank account

5. Pursuant to section 65-45 of the IPS that the First Plaintiffs are not required to maintain a separate administration account in relation to each of the Companies as otherwise required by the operation of Division 65 of the IPS.

Costs of application and other orders

6. The First Plaintiffs' costs of and incidental to this application be costs and expenses in the administration of each of the Companies, and be paid out of the assets of the each of the Companies.
7. The First Plaintiffs have liberty to apply in respect of these orders on giving all interested parties not less than 24 hours' notice.



8. The matter be listed for a case management hearing at **9.30 am** on **Friday, 10 September 2021** before the Commercial and Corporations Duty Judge, subject to the Court's availability.

Date that entry is stamped: 1 September 2021

Sia Lagos
Registrar



Schedule

No: NSD888/2021

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Plaintiff

DISABILITY SERVICES AUSTRALIA LIMITED
(ADMINISTRATORS APPOINTED) ACN 002 507 655

Third Plaintiff

MACQUARIE EMPLOYMENT TRAINING SERVICE LIMITED
(ADMINISTRATORS APPOINTED) ACN 643 269 112

Fourth Plaintiff

DSA MENTORING SERVICES LIMITED (ADMINISTRATORS
APPOINTED) ACN 629 308 881



Annexure A



**Disability Services Australia Limited
ACN 002 507 655**

**DSA Mentoring Services Limited
ACN 629 308 881**

**Macquarie Employment Training Service Limited ("METS")
ACN 643 269 112**

(Collectively Administrators Appointed) ("DSA")

Communications plan



1. Purpose

This document details the communications plan to support the communication of the notice of the First Meeting of Creditors (**First Meeting**), notice of the Second Meeting of Creditors (**Second Meeting**) and any other written future communications that need to be communicated to creditors of DSA (**Other Communications**).

2. Objectives

- Minimise disruption to business continuity while decisions are made.
- Ensure communication in relation to the notice of the First Meeting, notice of the Second Meeting and Other Communications is directed to all creditors of DSA including, employees, creditors, participant employees (**Participant Employees**) and the following representatives of Participant Employees (where applicable):
 - Guardians
 - Carers
 - Families
 - Decision makers(Collectively referred to as “**Decision Makers of Participant Employees**”)

3. Groups of Creditors

In order to ensure that all creditors receive communications in relation to the notice of the First Meeting, notice of the Second Meeting and Other Communications, we have prepared this communications plan specifically referencing the approach for the 4 groups of creditors as follows:

1. Trade Creditors (including unsecured trade creditors, contingent creditors, secured creditors and any other creditors that relate to the supply of operations to DSA excluding employees of DSA)
2. General Employee Creditors (excluding Participant Employees and Decision Makers of Participant Employees)
3. Participant Employees (individuals both an employee and participant) and Decision Makers of Participant Employees
4. METS students (students of METS to the extent their courses have been prepaid and they may be creditors of METS)

4. Communication of First Meeting

Trade Creditors, General Employee Creditors and METS students

The following steps have been undertaken in relation to the communication of the notice for the First Meeting to Trade Creditors, General Employee Creditors and METS students:

1. Pursuant to 600G of the Corporations Act 2001 (**the Act**), trade creditors were notified of the notice of the First Meeting of Creditors by way of a Circular to Creditors dated 27 August 2021 sent by email to all known emails in the books and records of DSA for Trade Creditors;
2. Pursuant to 600G of the Act, General Employee Creditors were notified of the notice of the First Meeting of Creditors by way of a Circular to Creditors dated 27 August 2021



sent by email to all known emails in the books and records of DSA for General Employee Creditors;

3. Pursuant to 600G of the Act, any METS students identified as potential creditors as at the date of the appointment were notified of the notice of First Meeting by way of email referencing a link to the Circular to Creditors dated 27 August 2021 on the website maintained by the Administrators;
4. Notice of the First Meeting published on the Australian Securities and Investments Commission (**ASIC**) published notices website;
5. Published the notice of the First Meeting on the website maintained by the Administrators; and
6. Published the notice of the First Meeting on the portal being used to manage creditor claims.

Participant Employees and Decision Makers of Participant Employees

The following steps have been undertaken in relation to the communication of the notice for the First Meeting to Participant Employees and Decision Makers of Participant Employees:

1. Direct phone calls (supported where available with DSA and KPMG letters distributed via email and post) to Participant Employees and Decision Makers of Participant Employees (where appropriate) advising them that DSA with the Administrators will:
 - a. Coordinate an in-person workshop for Participant Employees to discuss the voluntary administration; and
 - b. Arrange Webex online meetings for Participant Employees and Decision Makers of Participant Employees to discuss the voluntary administration.
2. Notice of the First Meeting published on the ASIC published notices website;
3. Published the notice of the First Meeting on the website maintained by the Administrators; and
4. Published the notice of the First Meeting on the portal being used to manage creditor claims by the Administrators.

The followings steps will be undertaken and completed by 3 September 2021

1. Hold workshops/roadshows in person on **Thursday 2 September 2021** at the following sites for Participant Employees and Decision Makers of Participant Employees (where appropriate) to discuss the voluntary administration and provide notice of the First Meeting:
 - 9am to 10am - Braemar Town Hall
 - 11:30am to 12:30pm – Seven Hills Town Hall
 - 1:30pm to 2:30pm – Mascot Town Hall
 - 3:00pm to 4:00pm – Kingsgrove Town Hall
2. Hold virtual workshops via Webex on **Friday 3 September 2021** for Participant Employees and Decision Makers of Participant Employees (where appropriate) to discuss the voluntary administration and provide notice of the First Meeting as summarised in the table below.
3. Direct phone calls to Participant Employees and Decision Makers of Participant Employees (where appropriate) who did not attend workshops/roadshows to provide notice of the First Meeting by **Friday 3 September 2021**.



Below is a summarised table on the approach in relation to the workshops/road shows and virtual webex call:

Business Unit	Date	Activity	Speakers	Documentation to be provided
Packaging Solutions	Thursday 2 September	Road shows to: <ul style="list-style-type: none"> • Braemar • Seven Hills • Kingsgrove • Mascot 	<ul style="list-style-type: none"> • Lesia Hart • David Charles • Peter Gothard 	<ul style="list-style-type: none"> • Easy read documents (printed and available on site)
	Friday 3 September	Virtual town hall (webex) with Participant Employees and Decision Makers.	<ul style="list-style-type: none"> • Lesia Hart • David Charles • Gayle Dickerson 	<ul style="list-style-type: none"> • Easy read documents (distributed prior to session)

Easy read documents summarising the administration process and notice of the First Meeting will be made available at the in-person workshops and circulated prior to the webex virtual meetings.

By 3 September 2021, DSA and the Administrators will have provided the opportunity for all Participant Employees and Decision Makers of Participant Employees to attend an in person or virtual meeting to provide notice of the First Meeting.

5. Communication for Second Meeting

We will undertake the following steps to provide notice of the Second Meeting:

1. Pursuant to 600G of the Act, notify Trade Creditors, General Employee Creditors and METS students (if determined to be creditors of METS) of the notice of the Second Meeting by electronic communication to all emails known for Trade Creditors, General Employee Creditors and METS students;
2. If emails are not available, post the notice of the Second Meeting (or document referencing the link to the notice of the Second Meeting available for download on the Administrators' website) to all known postal addresses for Trade Creditors, General Employee Creditors and METS students;
3. Direct phone calls to Participant Employees and Decision Makers of Participant Employees (where appropriate) advising them of the Second Meeting and that DSA with the Administrators will arrange virtual meetings for Employee Participants and Decision Makers of Participant Employees to discuss the voluntary administration and provide notice of the Second Meeting should they wish to attend;
4. Hold online virtual meetings (via webex or another platform) with Participant Employees and Decision Makers of Participant Employees (where appropriate);
5. Easy read documents summarising the notice of the Second Meeting will be made available and circulated prior to the virtual meetings;
6. Notice of the Second Meeting published on the ASIC published notices website;
7. Publish the notice of the Second Meeting on the website maintained by the Administrators; and
8. Publish the notice of the Second Meeting on the portal being used to manage creditor claims by the Administrators.



6. Future communications

For all Other Communications, we will take the following steps:

1. Pursuant to 600G of the Act, notify Trade Creditors (if required), General Employee Creditors and METS students (if determined to be creditors of METS) by electronic communication to all known emails available at the time for Trade Creditors, General Employee Creditors and METS students;
2. If emails are not available, post the Other Communications to all known postal addresses for Trade Creditors, General Employee Creditors and METS students;
3. Direct phone calls to Participant Employees and Decision Makers of Participant Employees (where appropriate) advising them of the Other Communications and that DSA and the Administrators will arrange virtual meeting for Participant Employees and Decision Makers of Participant Employees to discuss the Other Communications;
4. Hold online virtual meetings (via webex or another platform) with Participant Employees and Decision Makers of Participant Employees (where appropriate);
5. Provide easy read documents summarising the Other Communications (where appropriate) and circulate prior to virtual meetings;
6. Notice of any meeting published on the ASIC published notices website (if relevant);
7. Publish the notice or Other Communications on the website maintained by the Administrators; and
8. Publish the notice or Other Communications on the portal being used to manage creditor claims by the Administrators.

7. Hotline process

We make the following comments in relation to the communications process to manage the DSA and Administrators' hotline as follows:

- DSA is the contact for all participants, Participant Employees and Decision Makers of Participant Employees;
- DSA and the Administrators are the contacts for all employee queries (subject to type of query);
- DSA is the key contact for all METS students queries and can escalate to the Administrators as required;
- Enquiries made directly with KPMG (excluding enquiries from General Employee Creditors, Participant Employees and Decision Makers of Participant Employees) are forwarded to the relevant KPMG functional mailbox or hotline; and
- All other queries received by DSA are forwarded to KPMG using the process below.

General Employee Creditor enquiries

1. DSA staff to answer the enquiry, if able to using the Administrators' FAQs
2. Any enquiries that DSA are unable to answer should be escalated to KPMG
3. Respond to the email to advise them that their enquiry is being referred to KPMG and cc: AU-FMDSAemployees@kpmg.com.au
4. The KPMG team will respond to the enquiry and also cc: ask@dsa.org.au

Participant Employee and Decision Maker of Participant Employee enquiries (including enhance enquiries)

1. DSA staff to answer the enquiry, if able to using the Administrators' FAQs



2. Any enquiries that DSA are unable to answer should be escalated to Leisa Hart, CEO

METS student enquiries

- 1 DSA staff to answer the enquiry, if able to using the Administrators' FAQs
- 2 Any enquiries that DSA are unable to answer should be escalated to KPMG
- 3 Respond to the email address to advise them that their enquiry is being referred to KPMG and cc: AU-FMMET@kpmg.com.au
- 4 The KPMG team will respond to the enquiry and also cc: ask@dsa.org.au

Sale of business enquiries

1. DSA team to take down contact details for any sale of business enquiries
2. Forward the enquiries to KPMG

Supplier enquiries

1. Please forward all supplier enquiries to AU-FMDSAproviders@kpmg.com.au

General (creditors & other)

1. DSA staff to forward all creditor and other general enquiries to:

Entity	Email address
Disability Services Australia Limited (Administrators Appointed)	AU-FMDSA@kpmg.com.au
DSA Mentoring Services Limited (Administrators Appointed)	AU-FMDSAMENTORING@kpmg.com.au
Macquarie Employment Training Service Limited (Administrators Appointed)	AU-FMMET@kpmg.com.au