



## Katy Gallagher MLA

CHIEF MINISTER

MINISTER FOR HEALTH  
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MEMBER FOR MOLONGLO

Ms Anne Cahill Lambert  
Chair  
ACT Remuneration Tribunal  
PO Box 964  
CIVIC SQUARE ACT 2608

Dear Ms Cahill Lambert

Thank you for the opportunity to make a submission to the Remuneration Tribunal's annual review of remuneration, entitlements and allowances for members of the judiciary and part-time holders of public office.

### *Independence of the Judiciary*

No one would argue with the fact that an independent judiciary is an essential element of good government. In order to discharge their powers appropriately, a judge must be free from external pressures. Adequate remuneration is central to that foundation of independence. It is also recognised that balancing the arguments likely to be made for and against various positions with regard to remuneration increases is not an easy task. Ideally, through its deliberations the Tribunal should achieve that balance whilst ensuring that adequate remuneration outcomes protect the independence of the judiciary.

### *Jurisdictional relativities*

While it is unrealistic to expect public sector remuneration to compare with the private sector, driven as it is by performance in a competitive marketplace rather than performing a public function, the Government acknowledges that it is appropriate to compare the remuneration of members of the judiciary with their Territory, State and Federal counterparts. Since 1989, certain Australian States and the Federal Government have had in place an informal agreement recognising the High Court of Australia as the apex of the judicial hierarchy and that, accordingly, High Court judges should receive the highest level of remuneration relative to their Federal and State counterparts. The 'nexus', as it is known, establishes that the remuneration of judges of superior courts of record such as the Supreme Court should not exceed 85 per cent of the remuneration of a High Court judge. While the ACT Government has never formally adhered to the nexus, in order to ensure equitable conditions for judicial officers throughout Australia, the Government believes it is reasonable that any salary adjustment should be made against the background of jurisdictional relativities.

### *Competitiveness*

Additionally, the Government is mindful that the Territory must keep pace with other jurisdictions because equitable conditions will maintain the ACT's place as a realistic employment option for judicial officers and will ensure we continue to attract a high calibre of

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magistrates and judges to our jurisdiction. While remuneration is unlikely to be the sole reason a legal professional chooses to pursue a judicial career, it is clearly undesirable to find ourselves in a situation where candidates selected for appointment to the court decline on economic grounds. Adjustments to remuneration should be made in view of the imperative to place the Territory as a comparable employer.

*Economic considerations*

While the Territory's current circumstances are underpinned by strong economic growth for the previous year of around two and a half per cent, Commonwealth fiscal consolidation is likely to result in that growth weakening to about two per cent in the coming twelve months. Due to ongoing uncertainty in global financial markets resulting from the deepening sovereign debt crisis in Europe, all Australian jurisdictions not directly benefiting from the mining boom are facing serious economic challenges. While the Territory's 2012-13 Budget aims to balance economic and social ends responsibly, in a contracting economy this will primarily be driven by public sector efficiencies.

Notwithstanding the above, it is the Government's view that any increase in remuneration for members of the judiciary (and for other officials) should be broadly consistent with increases awarded to workers elsewhere in the community. Any adjustments to the remuneration, allowances and entitlements granted by the Tribunal ought to be consistent with community expectations and community standards as well as mindful of the impact on the Territory budget. This is perhaps more important than ever in view of the current economic climate and the continuing external pressures upon the budget.

Yours sincerely



Katy Gallagher MLA  
Chief Minister

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