



Dr Colin Adrian
ACT Remuneration Tribunal
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Dear Dr Adrian

ACT Remuneration Tribunal 2018 Spring Review

Thank you for your letter dated 20 August 2018 inviting a submission in relation to the annual review of the remuneration and allowances to be paid, and other entitlements to be granted, to Members of the ACT Civil and Administrative Tribunal (ACAT).

This submission recommends a modest restructuring of the way in which the remuneration of ACAT Members is determined each year to provide the Remuneration Tribunal with a simpler method for that determination and a greater degree of predictability and certainty for those Members.

The ACAT categories of membership positions currently comprise the President, full-time Presidential Member, part-time presidential Member, acting Presidential Member, full-time Senior Member, Senior Member and Ordinary Member.

Parity of President with Magistrates

In Determination 4 of 2013, the Remuneration Tribunal decided to “remunerate Presidential Members at salary parity with Magistrates from 1 November 2013.” That decision was confirmed and continued in the 2014 Determination. While not identified as a specific decision, in practice it was departed from in the 2015 Determination, at a time when the structure of the ACAT was under review.

In the 2016 submission to the Remuneration Tribunal, the previous President supported the head of the ACAT receiving remuneration at parity with Magistrates, and indicated that the Directorate and the Chief Magistrate supported such parity.

Amended Determination 11 of 2016 set the salary of the President as the same amount as for a Magistrate (as set out in Determination 9 of 2016), without formally expressing that as parity.

In my 2017 submission to the Remuneration Tribunal, I reiterated the case for parity on the basis that:

- The *ACT Civil and Administrative Tribunal Act 2009* (the ACAT Act) requires that the President be either a Magistrate or be eligible for appointment as a Magistrate;

- The ACAT has the broadest jurisdiction of civil and administrative tribunals nationally (a table of comparable jurisdictions is attached for your information);
- The ACAT jurisdiction continues to expand with the enactment of legislation conferring new powers and functions on it, as well as amendments to existing legislation. This includes the civil jurisdiction of the ACAT which increased from \$10,000 to \$25,000 in December 2016. This expanded jurisdiction has increased application numbers for, and the complexity of, civil dispute matters before the ACAT.

Determination 19 of 2017 also set the salary of the President as the same amount as for a Magistrate (as set out in Determination 17 of 2017), without formally expressing that as parity.

I reiterate my support for parity being formally reintroduced, or at least the amount of remuneration being equivalent to that of a Magistrate.

In doing so, I observe that the amount of remuneration for the President and Members of the ACAT is substantially less than for people holding comparable positions in similar tribunals elsewhere in Australia.

Salaries for Presidential and full-time Senior Member

In line with the linking of the President's salary with that of Magistrates, I further submit that salaries for Presidential Member and full-time Senior Member be set as a percentage of the President's salary, as follows:

- Presidential Member to be set at not less than 75% of the President's salary
- Part-time Presidential Member to be set at 50% of the President's salary
- Full-time Senior Member to be set at not less than 50% of the President's salary.

Current remuneration structures broadly reflect these percentages. My proposal is to formalise this approach in the 2018 Determination. In doing so, I do not intend to disadvantage any Members or category of Members by reducing remuneration to meet these percentages. If my proposal is adopted, and that would lead to any reduction in the amount paid to a category or categories of Members, any adjustments that are necessary should be made in the first year to ensure that no member is financially disadvantaged.

Remuneration for Sessional Senior Members and Ordinary Members

I propose that *per diem* remuneration for sessional Ordinary Members is set at 50% of the *per diem* remuneration rate for sessional Senior Members. This was the situation before Determination 19 of 2017, but the linkage seems to have been broken in that update.

CPI increases

I propose an increase to all remuneration in line with the Consumer Price Index (CPI) or, alternatively, such other increase as the Tribunal determines for other public office holders.

If the Remuneration Tribunal adopts above proposals to link President's remuneration to that of Magistrates, and to determine Presidential Member and full-time Senior Member remuneration as a percentage of the President's remuneration, it will be necessary each

year only to review the President's remuneration. The remuneration of other positions would be adjusted automatically, and the internal parity would be preserved.

In relation to sessional members, it would only be necessary for the remuneration of sessional Senior Members to be reviewed, with the remuneration of sessional Ordinary Members falling into line.

I would welcome an opportunity to discuss any aspect of this submission with you further at a hearing.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Graeme Neate', written in a cursive style.

Graeme Neate AM

President

6 September 2018

Comparison – Jurisdiction of Civil and Administrative Tribunals Nationally

	ACAT	NCAT	QCAT	NTCAT	WA SAT	SACAT	VCAT
Civil Disputes [^]	Y - \$25k	Y - \$40K	Y - \$25k	Y - \$25K	N	N	P – Goods & Services
Building & Construction	N	Y	P – After Building & Construction Commission process	N	Y	N	Y
Common Boundaries	Y	Y	Y	N	N	N	P – water flow disputes only
Discrimination	Y	Y	Y	Y	Y	N	Y
Energy & Water	Y	N	N	N	N	N	N
Guardianship & Administration	Y	Y	Y	Y	Y	Y	Y
Internal Appeals	Y	P – some cases only appealable to Supreme Court	P – judicial members decisions to Court of Appeal	P – Reviews decisions of its 'original' jurisdiction	N	P – Review of Gov Decisions appeals to Supreme Court	N
Mental Health	Y	N	N	N	P – hears appeals from the MH Tribunal	Y	P – reviews decisions of the MH Tribunal
Occupational Discipline*	Y	Y	Y	Y	Y	N	Y
Occupational Licensing*	Y	Y	Y	Y	Y	N	Y
Retirement Villages	Y	Y	Y	~	Y	Y	P – excludes disputes between residents without body corporate
Retail Leases	N	Y	Y	N	Y	N	Y
Review Administrative Decisions*	Y	Y	Y	Y	Y	Y	Y
Tenancy Disputes	Y	Y	Y	Y	N	Y	Y
Unit Titles	Y	Y	Y	P	Y	N	Y

[^]Civil dispute jurisdiction varies but can include consumer disputes, damages, debt applications, motor vehicles etc

^{*}The types of decisions that Tribunals can review vary in each Jurisdiction.

[#]Tasmania does not have a centralised Tribunal (ie. separate Mental Health, Guardianship and Discrimination Tribunal).

P: Partial jurisdiction (highlighted in Orange).

N: Do not consider these matters (highlighted in Red).

Y: Consider these matters (highlighted in Green).

~Unknown