



**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

**Major Review:
ACT Public Service
Senior Executive Service
remuneration, allowances and other
entitlements**

Final Report

March 2019

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Introduction and key findings

Introduction

The Australian Capital Territory (ACT) Remuneration Tribunal (the Tribunal) is an independent body established under the [Remuneration Tribunal Act 1995](#) (the Act), to determine remuneration, allowances and entitlements for ACT office holders, appointees and executives in the public service.

The Tribunal is required to review remuneration, allowances and entitlements for certain positions within the ACT, including the Head of Service, Directors-General and executives within the meaning of the *Public Sector Management Act 1994* (PSM Act), on an annual basis¹.

The annual review of the Head of Service, Directors-General and executives remuneration, allowances and entitlements usually occurs at the Autumn Review (February/March each year), and relevant determinations generally take effect on 1 July of that year.

The determination for the Head of Service, Directors-General and executives in place at the time of making this report is [Determination 9 of 2018](#), effective from 1 July 2018, and is provided at [Attachment A](#). The Tribunal has released its 2019 Determination at the same time as issuing this report. This Determination will take effect on 1 July 2019.

About the Review

As part of its annual Autumn Review in February 2017, the Tribunal decided to undertake a major review of ACT Public Service (ACTPS) Senior Executive Service (SES) remuneration, allowances and other entitlements to determine whether the current arrangements achieve the flexibility and transparency to attract and retain highly qualified, skilled and experienced people. The Tribunal is of the view that the executive remuneration, allowances and other entitlements must be competitive enough to attract and retain quality professionals. ACTPS executives includes the Head of Service, Directors-General and other executives under the PSM Act.

As such, this review is solely about the remuneration, allowances and other entitlements for the SES and does not pertain to any other positions within the Tribunal's remit.

This is the first major review of the remuneration, allowances and other entitlements of ACTPS executives since self-government in 1989. An evaluative review is both timely and

¹ *Remuneration Tribunal Act 1995*, Part 3.

necessary to assess whether the current methods used to make determinations and the current remuneration for executives continue to be fit for purpose.

The Review commenced in September 2017 with the release of a discussion paper, which was advertised in the Canberra Times and provided to Directors-General for distribution to key stakeholders. This final report should be read in conjunction with the Tribunal's Discussion Paper, which is available on the Tribunal's website.

The Tribunal hosted a workshop with executives to gain their perspectives on existing remuneration, allowances and other entitlements and any new incentives that could be introduced to attract and retain high performing professionals in the ACTPS. The Tribunal also met with the ACTPS Strategic Board, made up of all Directors-General and chaired by the Head of Service.

As part of the review, the Tribunal considered the structures and arrangements in place across other jurisdictions, as well as other developments in the ACTPS. Alongside this review, in July 2018, the Government introduced a new four-band executive classification structure which aligns the ACTPS with most other jurisdictions including the Australian Public Service (APS), New South Wales (NSW), Queensland, Tasmania and Western Australia.

The Tribunal also considered the remuneration and other entitlements for public sector executives across other jurisdictions. The Tribunal was cautious when comparing ACTPS with other jurisdictions due to the differences in classification structures, methods for assessing work value and diverse benefits offered across the other jurisdictions. However for the Tribunal's purposes, some comparisons serve as a useful guide to identify the differences or similarities in other jurisdictions.

This Review was undertaken in addition to the Tribunal's scheduled annual reviews and provides analysis of the factors that influence the Tribunal's decisions about executive remuneration.

Key findings

The key findings and recommendations are:

Decision 1: The Tribunal recommends that it would be prudent for the ACTPS to review the executive classification structure more frequently to ensure that the arrangements continue to be appropriate and contemporary.

Decision 2: The Tribunal notes the fixed-term contractual arrangement currently in place for ACTPS executives and has no reason to determine that this arrangement is a barrier to attraction and retention.

Decision 3: The Tribunal notes that the ACT Government no longer tables entire executive contracts. The Tribunal considers this requirement to be a matter for the ACT Government and the Legislative Assembly. The Tribunal does not make any decision in relation to this matter.

Decision 4: The Tribunal is of the view that the current re-engagement process is appropriate and makes no recommendations in this area.

Decision 5: The Tribunal notes the new position titling recently introduced by the Head of Service for executives across the ACTPS and agrees that this will enhance consistency and transparency.

Decision 6: The Tribunal will continue to monitor the prevailing economic circumstances for the Territory which it considers are important elements of its annual review and determinations about ACTPS executives.

Decision 7: The Tribunal has established a clearer remuneration differential between the executive classification bands and, at the same time, a more consistent progression within a band.

Decision 8: The Tribunal acknowledges the unique role of the Head of Service and will establish a clear and significant differential between the Head of Service level 4.4 and the other Band 4 levels.

The Tribunal recommends that the ACT Government consider including an Senior Executive Service Band 5 level into the executive classification structure to better recognise the distinct Head of Service role.

Decision 9: The Tribunal, in its annual determinations, will monitor the competitiveness of the ACTPS executive with other jurisdictions, particularly the APS and NSW.

Decision 10: The Tribunal will continue to monitor the Senior Officer Grade A salary on a regular basis in order to maintain an appropriate differential and relativity, between it and the base of the ACTPS executive salary.

Decision 11: The Tribunal is of the view that there should be full transparency and visibility on the use of the additional salary provisions for executives. As these provisions are in the PSM Standards, this is a matter for the Government.

Decision 12: As part of the annual review of executive base salaries, the Tribunal will monitor the relativities between executive base salaries and the salaries for the non-executive ACTPS, as determined through the Enterprise Agreements.

Decision 13: The Tribunal acknowledges that the ACT Government has responsibility for vehicle arrangements, including the allowance in lieu of an executive vehicle, and that this is outside the Tribunal's jurisdiction.

These arrangements are outlined in the PSM Standards. Notwithstanding this, the Tribunal recommends to the ACT Government that it:

- review and adjust rates on an annual basis;
- increase the rates to ensure competitiveness with the rates offered in the APS;
- apply one rate of allowance for all executives rather than different allowance rates for each band (this approach would be consistent with the arrangements for Members of the Legislative Assembly (MLAs); and
- consider amending the PSM Standards to remove the provision of a vehicle and replace it with an allowance in lieu, similar to the arrangements for MLAs.

Decision 14: As the allowance in lieu of a car park is set in the PSM Standards, it is a matter for the Government. However, the Tribunal is of the view that the allowance in lieu of a car park should be established based on the current average cost of a car park and adjusted taking into account Consumer Price Index increases.

Decision 15: The Tribunal will include a reference in the next determination for ACTPS executives which will refer to the conditions set in the PSM Standards and Enterprise Agreements to assist executives in having a full and complete understanding of their remuneration and entitlements in one central location.

Decision 16: The Tribunal has decided to increase the Fringe Benefits Tax (FBT) payment. The payment will be made on a fortnightly basis for executives that receive the allowance in lieu of a vehicle. The Tribunal will monitor this rate on an annual basis.

Decision 17: The Tribunal does not recommend any changes to salary packaging arrangements as a result of this review. However, given that the ACTPS Salary Packaging Policy has been in place since 2015, the Tribunal is of the view that it is timely to undertake a review and recommends that the review should be conducted in conjunction with a review of the Shared Services Salary Packaging Manual to ensure consistency in these policy requirements is maintained across the ACTPS.

Decision 18: The Tribunal will monitor and review the relocation allowance each year. The Tribunal will include a repayment provision in its Determination if an executive leaves the ACTPS. Under the new arrangements, executives that leave the ACTPS within the first six months will be required to pay back 100 per cent of the relocation allowance. Executives that leave the ACTPS within 12 months will be required to pay back 50 per cent of the relocation allowance. This would be consistent with the repayment of reimbursement of reasonable relocation expenses provision that applies to non-executive employees in the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2018-2021.

Decision 19: The Tribunal notes that the executive leave entitlements are consistent with other jurisdictions, and in some cases (such as personal leave and paid maternity leave) are more beneficial. The Tribunal's Determination is currently silent on leave entitlements. The Tribunal is of the view that the inclusion of a clause about leave entitlements within the section on employer-provided benefits will clarify the entitlements in one central location.

Decision 20: The Tribunal considers that the provision of other executive entitlements is a matter for the relevant Directorate and the Head of Service. However its strong view is that there should be consistency in the application of these entitlements and arrangements.

Decision 21: The Tribunal acknowledges that the Government has responsibility for travel arrangements which are contained in the PSM Standards and are outside the Tribunal's jurisdiction. Notwithstanding this, the Tribunal recommends to the Government that it would be beneficial to consider a small allowance for international travel purposes consistent with the ATO's determinations.

Decision 22: The Tribunal notes that the current training and professional development opportunities appear appropriate, reasonable and contemporary. The Tribunal makes no recommendations about this matter at this time.

ACTPS Senior Executive Service

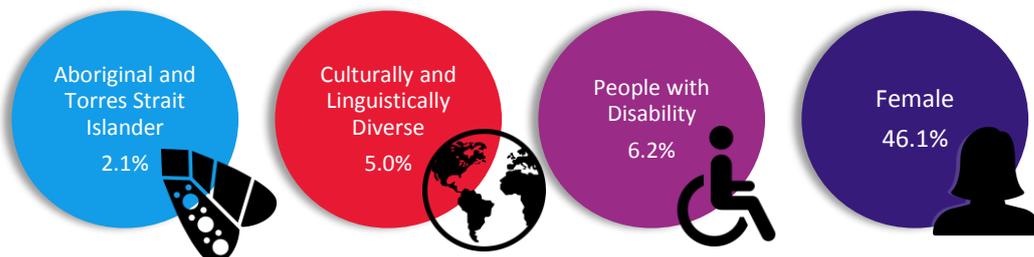
Overview of the ACT Public Service

The ACT Public Service (ACTPS) is a unique jurisdiction that combines both state and municipal roles into one level of government. It is responsible for and delivers services across many areas, including but not limited to, health, education, administration of justice and local government functions such as roads infrastructure, parks, libraries, waste collection and community services. The ACTPS employs over 22,230 people who directly and indirectly provide public services to the Canberra community and surrounding regions on a daily basis. The ACTPS is structured into eight directorates and a number of agencies. The directorates are as follows:

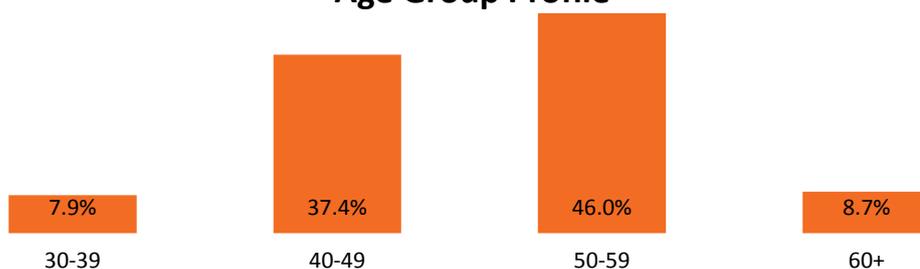
- Chief Minister, Treasury and Economic Development Directorate (CMTEDD);
- ACT Health Directorate (ACT Health);
- Canberra Health Services;
- Community Services Directorate (CSD);
- Education Directorate;
- Environment, Planning and Sustainable Development Directorate (EPSDD);
- Justice and Community Safety Directorate (JACS); and
- Transport Canberra and City Services (TCCS).

ACTPS Executives

ACTPS executives play an integral role in the delivery of the state and local government functions and services to the ACT community. Below is a snapshot of the executive profile:



Age Group Profile



At 30 June 2018, there were 265 individuals² in the ACTPS Senior Executive Service (SES) accounting for roughly 1 per cent of the total ACTPS workforce. The average age for the SES is 50.2 years, compared to 42.4 years across the ACTPS workforce.

A breakdown of the SES demographics from 2014 to 2018 is provided below:

Table 1 – executive demographics from 2014 to 2018

Year	No. of executives	Percentage of females	Gender pay gap ³	Average Age	Average Length of Service
2018	265	46.1%	-1.6%	50.2	11.9
2017	235	44.7%	-1.6%	50.3	11.4
2016	229	41.5%	-0.2%	49.8	11.5
2015	212	41.9%	-1.4%	50.1	12.1
2014	213	43.1%	-3.4%	50.0	12.1

Table 2 – executive demographics in comparison to the general ACTPS workforce at 30 June 2018

	<i>Executives</i>	<i>Whole of ACTPS workforce</i>
Headcount	265	22,230
Percentage of females	46.1%	65.2%
Gender pay gap	-1.6%	2.3%
Average age	50.2	42.4
Average Length of Service	11.9	8.8

Diversity indicators show the SES is below the ACTPS average on two of the four diversity metrics. The largest differences are seen in gender proportion (46.1 per cent of executives are female compared to 65.2 per cent of females across the ACTPS workforce) and Cultural and Linguistic Diversity (5 per cent of executives have identified as being in this diversity group compared to an average of 17.9 per cent across the ACTPS). However, the proportion of People with Disability in the SES is 6.2 per cent which is above the ACTPS average of 2.4 per cent and the proportion of Aboriginal and Torres Strait Islanders in the SES is 2.1 per cent which is just above the ACTPS average of 1.7 per cent. The Tribunal notes the positive figures relating to the number of female executives and their pay levels.

² Figures as at 30 July 2018 may include a small number of individuals performing higher duties arrangements to cover executives on leave.

³ The gender pay gap is the difference between the earnings of women and men. A negative percentage means that women earn more than men; a positive percentage means that men earn more than women. As at June 2018, the gender pay gap for ACTPS executives was -1.6% indicating that for every dollar earned by a male executive, females earned \$1.02.

The data in Table 1 and Table 2 is taken from the State of the Service Reports.

Executive Classification Structure

Since the establishment⁴ of self-government in 1989 there has been a 12 point executive classification structure across three bands. As raised in the Discussion Paper, the roles, responsibilities and expectations of executives have evolved significantly over the past 30 years and it was evident that the structure no longer accurately reflects the roles at each classification point, nor the relativities between classification points.

The *Public Sector Management Act 1994* was amended in 2016 to establish the Senior Executive Service (SES). The amendments created a clearer delineation between executive levels and provided for ACTPS executives to be engaged as members of the SES and not in particular executive positions. As noted in the Discussion Paper, these changes were designed to facilitate efficient mobility arrangements or temporary assignments across the ACTPS according to the executive's skills and capabilities and to enable operational requirements in order to best meet the priorities of the Government. Importantly, the arrangements are also put in place to allow executives to broaden their experiences and build their careers.

In April 2017, the ACT Government commenced a review of the executive classification structure. As part of this review, an independent consultant was engaged to inform the development of a new classification structure to be comparable and competitive with the APS and other States and Territory public sectors to ensure that the ACTPS can attract and retain qualified, skilled and high performing executives.

This review of the executive classification structure was the first review of this nature conducted since the original structure was established in 1994. It is useful to note that there have been some reviews and changes to the structure since this time⁵.

The Public Sector Management Standards 2016 (PSM Standards)⁶ were amended on 1 July 2018 to introduce a new four-band 16-point executive classification structure. The move to a four-band executive structure aligns the ACTPS with most other jurisdictions including the APS, New South Wales, Queensland, Tasmania and Western Australia.

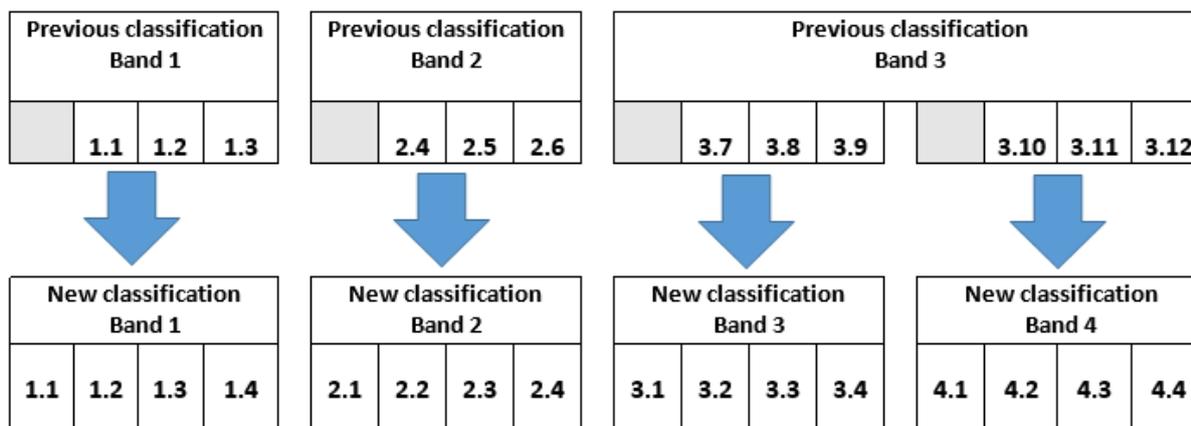
All executives employed by the ACTPS on 1 July 2018 at each classification were moved from the previous structure into the revised classification structure. This did not affect the remuneration of individual executives.

⁴ The executive classification structure was formalised in legislation in 1994.

⁵ See discussion in the 'executive contracts' section of this report.

⁶ The PSM Standards are available on the Legislation Register at: <http://www.legislation.act.gov.au/di/2016-251/default.asp> (see section 50 and Part 12)

The diagram below outlines how the previous classifications were translated into the revised classification structure:



All long term executive positions created in the ACTPS are subject to an independent position evaluation in order to assess the work value of the position. The Head of Service must consider the position evaluation and decide a classification band and level for the position as required under section 50 of the PSM Standards.

The Tribunal issued Determination 9 of 2018 to reflect the revised classification structure from 1 July 2018 and is available at: www.remunerationtribunal.act.gov.au.

Decision 1: The Tribunal recommends that it would be prudent for the ACTPS to review the executive classification structure more frequently to ensure that the arrangements continue to be appropriate and contemporary.

Roles and responsibilities

The ACTPS requires the SES to have a level of adaptability and flexibility to operate effectively in a variety of settings to deliver services to the ACT and meet the expectations of the community it serves. They are required to develop and display strategic vision and leadership capability to ensure that all employees are equipped and motivated to achieve high performance across the ACTPS. The roles and responsibilities of executives have evolved significantly since the establishment of the ACTPS in 1994. Always subject to high standards of individual accountability, responsibility and professional integrity, executives under the newly articulated SES accountabilities, roles and responsibilities (at Table 3) are required to demonstrate a heightened level of transparency and collective accountability as well as skilful community engagement. Executives are now more accountable for their actions, decisions and behaviour. There is a much higher demand on transparency and collective integrity.

The current structure of the ACTPS requires executives to work together collaboratively and to reinforce the 'One Service' model. The approach has a stronger emphasis on whole of service considerations than previously existed when the ACTPS was established in 1994. Under these arrangements all executives are engaged by the Head of Service which strengthens the whole of government focus and co-ordination in the engagement of executives. Directors-General are now directly accountable to both the relevant Minister and the Head of Service. Historically Directors-General engaged their own executives, were only accountable to the relevant Minister, and were expected to work collaboratively with other Directors-General. In 2012, the two central agencies of Chief Minister and Treasury were merged together which has further bolstered the key co-ordination role played by the centre in driving the Government's policy and fiscal agenda.

Significant developments in technology and social media over the past two decades have placed greater demands on executives to be responsive and engaged with the community. The internal and external operating environment for the ACTPS is very different and more sophisticated than 24 years ago. The Territory has more legislation, reporting and other requirements to the Commonwealth and other stakeholders and increased levels of accountabilities, scrutiny and expectations from the Legislative Assembly and the ACT community. The ACT now has a formal seat at the table at the Council of Australian Governments, national forums and other States and Territory meetings. This has been a significant change, particularly when the ACT only had 'observer status' or an informal role in the early days of self-government.

Table 3 sets out in more detail the current ACTPS SES accountabilities, roles and responsibilities across the SES bands.

Table 3 – ACTPS SES Accountabilities, Roles and Responsibilities

Level	Accountabilities, Roles and Responsibilities
SES Band 1	<ul style="list-style-type: none"> • The leader of a discrete policy, service delivery or enabling function within a broader portfolio in a directorate. • Technical and subject matter expertise of strategic significance to the business. • Operates within a reasonably defined scope. • Responsible for the performance of their unit. • Independence in decision making and the ability to commit resources within allocated funding. • Accountable for the above to a more senior executive, usually a Band 2.
SES Band 2	<ul style="list-style-type: none"> • Leads a number of policy, service delivery or enabling functions. • Operates with considerable strategic scope. • Responsible for the performance of the units reporting to them. • Significant independence in decision making and able to commit resources within funding allocated to their areas of responsibility. • Accountable for the above to a more senior executive, often a Band 3.
SES Band 3	<ul style="list-style-type: none"> • Supports the Director-General to lead the directorate and develop and promote the strategic objectives and culture. • Deputises for the Director-General. • Operates with substantial strategic scope and scale, leading and managing a significant proportion of a directorate (policy, service delivery, enabling functions). • Responsible for the performance of those parts of the directorate reporting to them. • Accountable for the above to the relevant Director-General.
SES Band 4	<p><u>Director-General</u></p> <ul style="list-style-type: none"> • Leads a directorate, sets the strategic objectives and establishes the directorate's culture. • Collaboratively with other Directors-General, pursues whole of government outcomes. • Responsible for the advice to Ministers and the Head of Service and personally advises on the most complex and sensitive matters. • Responsible for the performance of the entire directorate with complete accountability for business outcomes. • Responsible for the performance of all other Executives in the directorate. • Accountable for the above to the relevant Minister and the Head of Service. <p><u>Head of Service</u></p> <ul style="list-style-type: none"> • Leads the ACT Public Service (ACTPS), sets the strategic objectives and establishes the ACTPS culture. • Responsible for whole of government strategic advice to the Chief Minister and the Cabinet and personally advises on the most complex and sensitive matters. • Responsible for providing direction across the Service in relation to critical or potentially critical issues. • Responsible for the performance, structure and integration of entire ACTPS. • Responsible to the Chief Minister for the performance of Directors-General and all Executives in the ACTPS. • Accountable for the above to the Chief Minister.

Shared Capability Framework – Executive Capabilities

In addition, executives are expected to demonstrate particular skills, knowledge and behaviour. The ACT Public Service Executive Capability Framework describes the skills, knowledge and behaviour, which are expected of all executives regardless of their workplace. The Framework provides a shared understanding of the capabilities required of successful and effective leaders. The Executive Capabilities are used for recruitment and performance development purposes and these are outlined below.

Leads and values people	<ul style="list-style-type: none">• Motivates and develops people• Values diversity and respects individuals• Builds a culture of improving practice
Shapes strategic thinking	<ul style="list-style-type: none">• Inspires a sense of purpose and direction• Encourages innovation and engages with risk• Thinks broadly and develops solutions
Achieves results with integrity	<ul style="list-style-type: none">• Develops organisational capability to deliver results• Manages resources wisely and with probity• Progresses evidence based policies and procedures• Shows sound judgement, is responsive and ethical
Fosters collaboration	<ul style="list-style-type: none">• Listens and communicates with influence• Engages effectively across government• Builds and maintains key relationships
Exemplifies citizen, community and service focus	<ul style="list-style-type: none">• Understands, anticipates and evaluates client needs• Creates partnerships and co-operation• Works to improve outcomes

Key issues and decisions

This section addresses the main areas covered in the Tribunal's Discussion Paper which was open for consultation and feedback. The Tribunal has considered the following areas carefully and makes relevant comment, recommendations and decisions where appropriate.

Employment arrangements

Executive contracts

Executives within the ACTPS are engaged on either a long term or short term contractual basis. Long term engagements are for periods of up to 5 years, while short term engagements cannot exceed a period of 2 years.

When an officer is engaged as an executive member on a long term contract from a non-executive position in the ACTPS, the member forfeits their tenure as an officer. If the engagement is on a short term contract, the tenure as an officer is maintained.

The executive contract system was implemented in the ACTPS in 1996. Amendments to the PSM Act and the PSM Standards in 2005 provided some greater flexibility in moving executives between jobs and in increasing termination benefits. The amendments included the capacity for recognition of 'job growth' without the need for a further merit process and for executives to be assigned to 'other state functions in the public sector'. Further amendments were made in 2016 to establish the Senior Executive Service to remove the concept of holding an office. The 2018 amendments to the PSM Standards further strengthened and built upon the changes made in 2016.

Most other jurisdictions employ executives on a similar contractual basis as that used in the ACTPS. The exceptions being the APS where most SES are engaged on an ongoing basis, and the NSW State Government which has the option to employ executives on either an ongoing or contractual basis.

The Tribunal is aware that the Victorian Public Sector Commission recently explored the views on fixed term contracts versus ongoing employment for executives⁷. The review's recommended position was for the fixed term arrangement to be retained but their five year term to be removed from the legislation⁸.

⁷ The Victorian Public Sector Commission Review of Victoria's Executive Officer Employment and Remuneration Framework, p. 33

⁸ Ibid

In the Discussion Paper, the Tribunal canvassed whether or not the lack of tenure was a barrier to attracting and retaining executive employees. No evidence was presented to the Tribunal to indicate this was a barrier. The Tribunal notes that these arrangements have been in place since 1996 and are now considered normal practice.

Decision 2: The Tribunal notes the fixed-term contractual arrangement currently in place for ACTPS executives and has no reason to determine that this arrangement is a barrier to attraction and retention.

Tabling of long term executives in the Legislative Assembly

The Chief Minister is required to present to the Legislative Assembly details of long term SES members including their name, classification and whether they are engaged at a salary higher than the base salary. This is a requirement under the PSM Standards⁹. The Tribunal notes that in the interests of transparency, remuneration rates for executives should be available for scrutiny.

Decision 3: The Tribunal notes that the ACT Government no longer tables entire executive contracts. The Tribunal considers this requirement to be a matter for the ACT Government and the Legislative Assembly. The Tribunal does not make any decision in relation to this matter.

Documents tabled in the Legislative Assembly are available on the Assembly website, https://www.parliament.act.gov.au/in-the-assembly/tabled_papers.

Re-engagements

ACTPS executives engaged on a long term contract can be re-engaged for a further period of 5 years following a comprehensive performance assessment made by the relevant Director-General and an executive (at a higher level) from another directorate. Prior to the re-engagement being approved, the Head of Service must be satisfied that the respective executive has met all expectations set in their approved performance agreement.

The Tribunal considered whether the re-engagement arrangements were preventing retention of executives within the ACTPS. The Tribunal noted the provision in the PSM Standards which provides for the Head of Service to approve salary up to 10 per cent higher than the base salary in certain circumstances. The provision is used to attract new executives to the ACTPS but it also has a retention element. The provision is discussed in more detail in the section titled 'Additional salary in unusual or special circumstances'.

⁹ Section 56, *Public Sector Management Standards 2016*: <http://www.legislation.act.gov.au/di/2016-251/current/pdf/2016-251.pdf>

The Tribunal explored some retention strategies from other jurisdictions, and found that all jurisdictions have the ability to remunerate executives above the total remuneration package.

The APS has a range of incentive bonuses for their executives. However, the 2017 APSC Remuneration Report noted a steady decline in the proportion of APS SES employees who received incentive bonuses over the past five years, specifically performance bonuses¹⁰. In 2016, Victoria removed performance-related incentive payments from their public service executive remuneration policy following a review finding that the bonuses had not been effective in driving performance¹¹.

The Tribunal notes that incentive payments for executives across other jurisdictions appear to be rare.

The NSW Remuneration Tribunal has provision in its legislation – the *Statutory and Other Offices Remuneration Act 1975* – to alter, on request by the Minister, the standard executive remuneration package for particular senior executives¹². This appears to provide a useful attraction and retention tool for the NSW Government.

Decision 4: The Tribunal is of the view that the current re-engagement process is appropriate and makes no recommendations in this area.

Internal executive comparability and mobility

ACTPS executives are engaged as members of the SES rather than in specific positions, which is a significant change from earlier arrangements. This arrangement provides the administrative mechanism to ensure that mobility across the Service can be facilitated efficiently.

The ACTPS also supports mobility of their executives with opportunities for short term or long term mobility movements across the Service¹³.

¹⁰ 2017 APSC Remuneration Report, https://www.apsc.gov.au/sites/g/files/net5296/f/18330_apsc_-_remuneration_report-accessible-v3.pdf

¹¹ Victorian Public Sector Commission, <https://vpvc.vic.gov.au/executive-remuneration/victorian-public-service-executive-remuneration>

¹² Part 3B of the *Statutory and Other Offices Remuneration Act 1975* (NSW)

¹³ ACTPS Director-General and Executive Handbook: https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0007/889558/Executive-Handbook-with-vehicles-August-2017.pdf.

The Tribunal's Discussion Paper noted that the varied executive position titles and nomenclature used across ACTPS are confusing and impact on the ease of mobility across Directorates. In the Tribunal's view, there is merit in establishing consistency and standardisation of executive position titles across the ACTPS to support mobility, consistency and reduce confusion.

The Tribunal understands that the Head of Service has already commenced the implementation of consistent approach to position titles for executives across the ACTPS. The standardised position titles are:

- Band 1: Executive Branch Manager;
- Band 2: Executive Group Manager;
- Band 3: Deputy Director-General; and
- Band 4: Director-General.

Decision 5: The Tribunal notes the new position titling recently introduced by the Head of Service for executives across the ACTPS and agrees that this will enhance consistency and transparency.

Remuneration / SES Total Remuneration Package

Evaluating and reviewing the methodologies used to decide the remuneration of executives is an important process in maintaining a consistent and transparent approach at the core of the Tribunal's operations and legislative responsibilities.

As part of its annual inquiry into the remuneration of executives, the Tribunal considers information from a number of sources, in particular work value, prevailing economic conditions, market and jurisdictional comparative data and views of stakeholders.

Over the past 30 years, the roles, responsibilities and expectations of executives have evolved significantly. The Tribunal notes that remuneration for the senior roles should be sufficient to ensure the best candidates can be attracted and retained. The Government has advised the Tribunal that:

'The Head of Service, Directors-General and ACTPS executives play a key role in delivering the Government's agenda by leading the provision of programs and services to the ACT community. The Government recognises the importance of competitive remuneration for leaders of the public service to attract and retain the best people to lead and drive change across the Service. It is the view of the Government that the remuneration, allowances and other entitlements of these officers should continue to be commensurate with the roles and responsibilities.'

*The Government recognises that the ACT Public Service is in direct competition for experienced executives with the Commonwealth and other jurisdictions. If the Territory is to be well positioned to attract and retain a high performing executive workforce for the Government of the day, the remuneration, allowances and other entitlements will need to be competitive and relatively comparable.'*¹⁴

The SES Total Remuneration Package (TRP) is based on a cash component (base salary) and additional employer-provided benefits of a fringe benefit tax (FBT) allowance, vehicle allowance, parking allowance/arrangements and an employer superannuation contribution. The cash component and FBT allowance of the TRP is the responsibility of the Tribunal, whereas the other components of the TRP are determined by the Government. This has been the practice for a number of years.

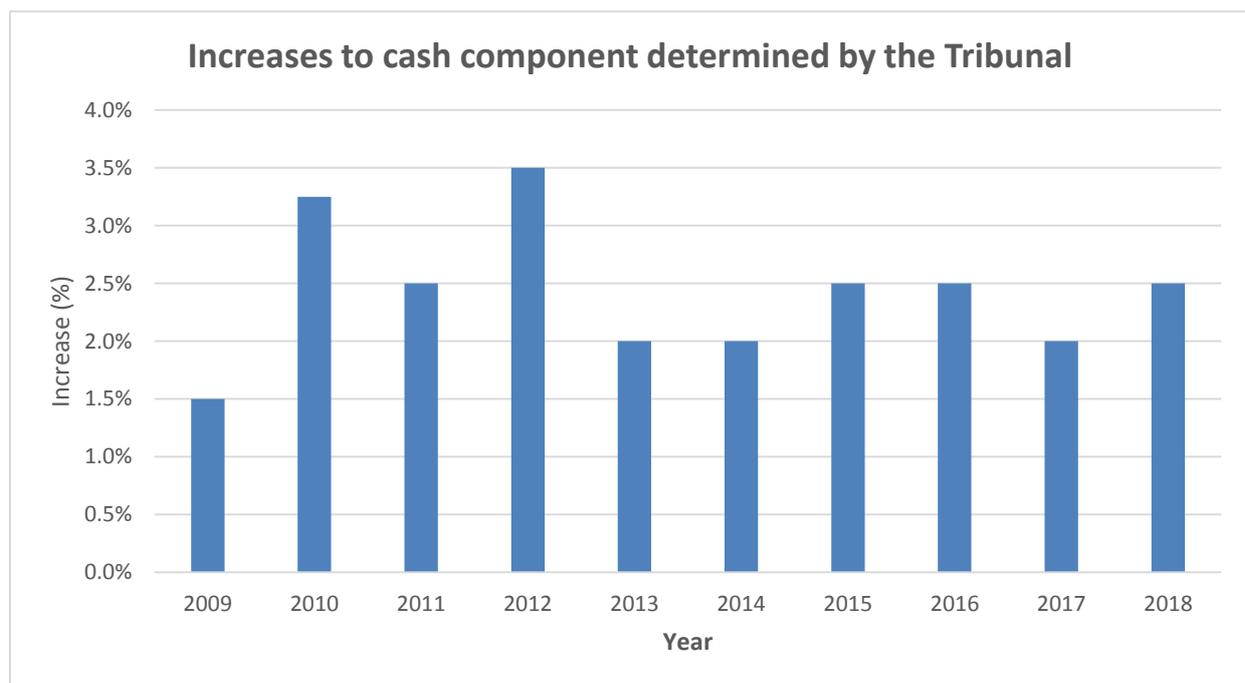
In the Discussion Paper, Attachment C and Attachment D outlined the TRP (excluding relocation allowance) and employer-provided benefits for executives depending on their level and superannuation arrangements.

¹⁴ Government Submission from the Chief Minister, February 2018
https://www.remunerationtribunal.act.gov.au/_data/assets/pdf_file/0006/1174659/government-submission-barr-feb18.pdf

As noted in the Discussion Paper, progression through remuneration points is not incremental and can only be achieved through promotion into a role classified at a higher point on the scale. However, there is scope for increases in classification to be granted within a band, where a formal position evaluation recommends an increase to the classification of the position.

The Tribunal’s latest increase to the remuneration (cash component) of ACTPS executives was 2.5 per cent, which took effect on 1 July 2018¹⁵. This followed previous increases of 2 per cent in 2017 and 2.5 per cent in 2016. Over the past 10 years, the Tribunal has increased remuneration by an average of 2.4 per cent per annum. It is useful to note that the Tribunal determined an increase as low as 1.5 per cent in 2009. Graph 1 shows executive remuneration increases over the past ten years. Table 4 shows the annual percentage increase to the Consumer Price Index, Annual wage review and Wage Cost/Labour Price Index over the same period.

Graph 1 – executive remuneration (cash component) percentage increases between 2009 and 2018



¹⁵ Determination 3 of 2018 provided a 2.5% increase from 1 July 2018. Determination 9 of 2018 provided remuneration against the four new levels within the classification structure.

Table 4: Economic Changes over 10 years (2009-2018)

YEAR	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Avg.
CPI (% change for the year to June quarter – from ABS)	1.5	3.1	3.5	1.2	2.4	3.0	1.5	1.0	1.9	2.1	2.1
Annual wage review (% increase – from Fair Work Commission)	0	4.8	3.4	2.9	2.6	3.0	2.5	2.4	3.3	3.5	2.8
Wage Cost / Labour Price Index (% increase for the year to June quarter – from ABS)	3.9	3.0	3.8	3.7	2.9	2.6	2.3	2.1	1.9	2.1	2.8

Decision 6: The Tribunal will continue to monitor the prevailing economic circumstances for the Territory which it considers are important elements of its annual review and determinations about ACTPS executives.

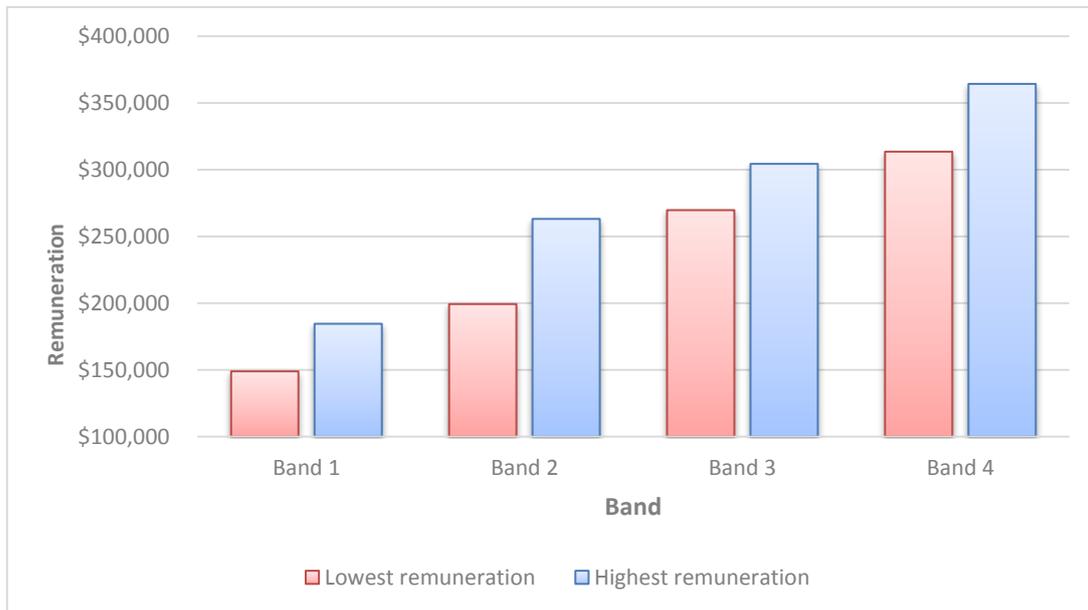
Prior to the new classification structure being implemented, there were known concerns around the remuneration gaps between some of the classification levels. These arrangements remain an area of concern for the Tribunal.

The Discussion Paper raised particular concerns with the large remuneration gap between 2.5 and 2.6 classifications (\$36,415 from 1 July 2017) and the much smaller gap across the bands from 2.6 to 3.7 (\$9,601 from 1 July 2017). Under the revised classification structure, the main area of concern is with the gap between the 2.3 and 2.4 classifications (\$37,325 difference from July 2018).

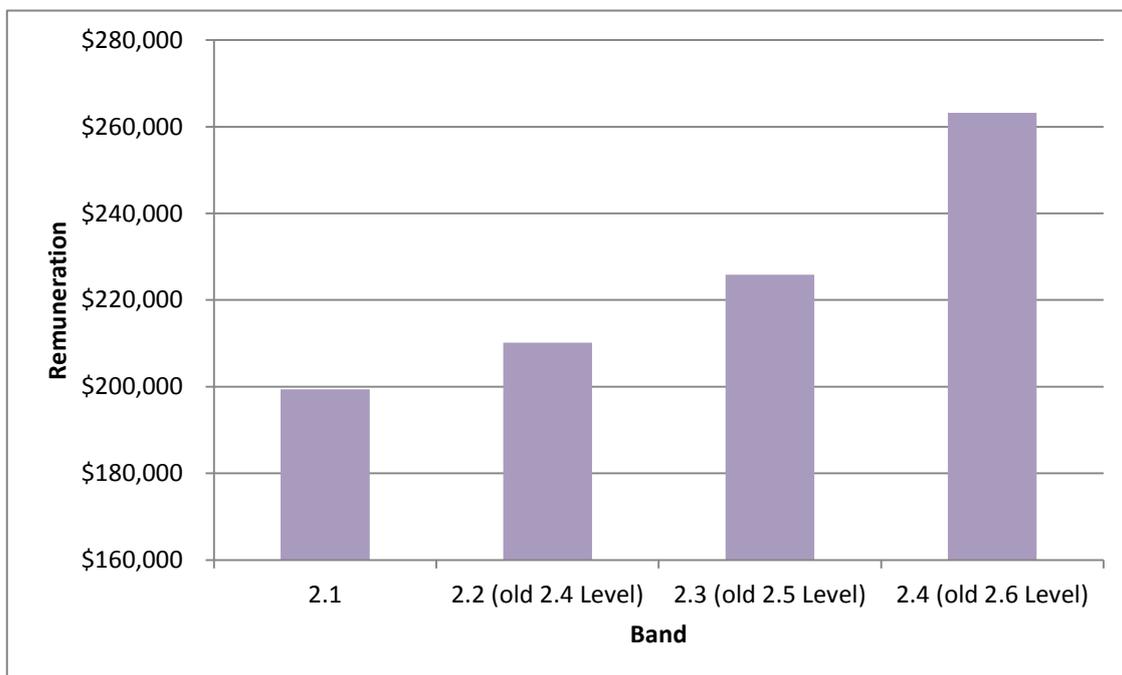
Consequentially, the Tribunal is of the view that there needs to be a more consistent progression within a band and a clearer remuneration differential between the bands.

Graph 2 shows the highest and lowest base remuneration levels across the four-band executive structure as at July 2018. Graph 3 highlights the base remuneration gap continuing between the 2.3 and 2.4 classifications. Graph 4 shows the remuneration gap between the executive band 4 classifications.

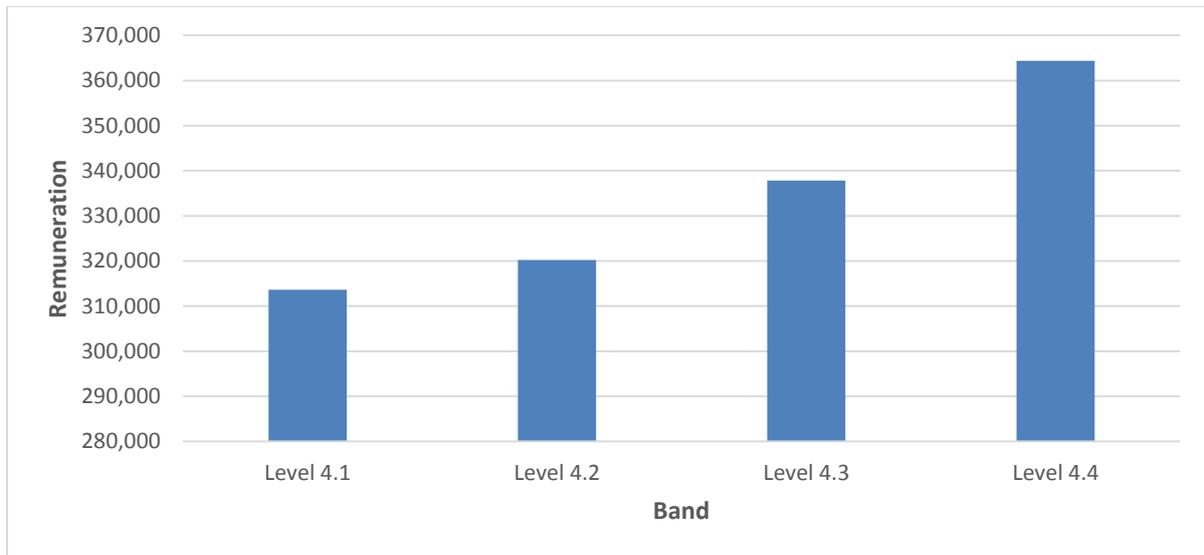
Graph 2 – highest and lowest base remuneration levels across the four-band executive structure as at July 2018 (cash component)



Graph 3 – base remuneration levels within executive band 2 as at July 2018 (cash component)



Graph 4 – base remuneration levels within executive band 4 as at July 2018 (cash component)



The Tribunal notes that it is appropriate for there to be a sufficient gap between the Head of Service (Level 4.4) and the other Directors-General within Band 4 to recognise the increased work value and responsibilities of the role. The Head of Service has a significant stewardship and leadership role across the ACTPS. The Head of Service is responsible to the Chief Minister for the performance, structure and integration of the entire ACTPS. The Head of Service is also the Director-General of Chief Minister, Treasury and Economic Development Directorate.

Decision 7: The Tribunal has established a clearer remuneration differential between the executive classification bands and, at the same time, a more consistent progression within a band.

Decision 8: The Tribunal acknowledges the unique role of the Head of Service and will establish a clear and significant differential between the Head of Service level 4.4 and the other Band 4 levels.

The Tribunal recommends that the ACT Government consider including an SES Band 5 level into the executive classification structure to better recognise the distinct Head of Service role.

Jurisdictional comparison

The Tribunal has reviewed the ACTPS executive remuneration and other entitlements with public sector executives across the Commonwealth and the other States and Territories. APS executive remuneration is significantly higher than all other jurisdictions. The Tribunal notes that this could be a barrier to attracting Commonwealth senior executives into ACTPS SES positions.

Table 5 provides a comparison of ACTPS to APS executive remuneration packages across the four SES bands and is presented visually in Graph 5 and Graph 6 below. As mentioned in the Discussion Paper, the Commonwealth Remuneration Tribunal does not set remuneration for APS SES Bands 1, 2 or 3. APS agencies are required to set the terms and conditions for their SES employees, and in most cases, this is facilitated through a determination under section 24 of the *Public Service Act 1999* and/or individual common law agreements. These arrangements are not usually made available to the public so it is difficult to compare the salary at those bands. The APS Remuneration Report 2017 provides some assistance in this area.

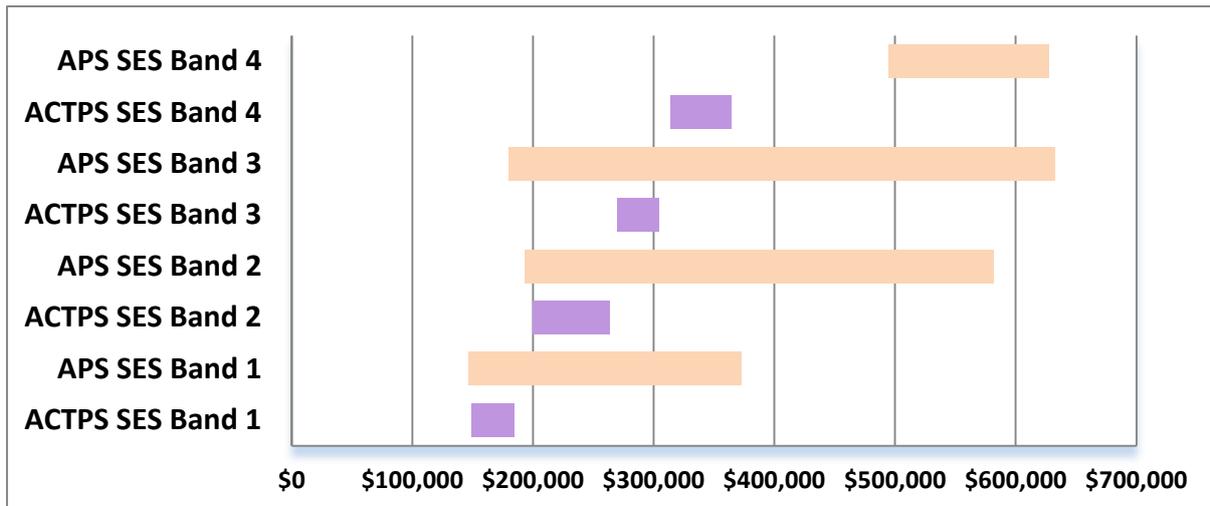
Table 5 – comparison of base salary and TRP between ACTPS, APS and NSW executives across 4 SES bands

	ACTPS		APS ¹⁶		NSW PS ¹⁷	
	Median base salary	Median TRP	Median base salary	Median TRP	Base salary midpoint	TRP midpoint
SES Band 1	\$161,002	\$211,406	\$189,353	\$247,620	-	\$227,950
SES Band 2	\$218,015	\$291,481	\$245,348	\$310,641	-	\$302,950
SES Band 3	\$280,892	\$344,885	\$336,876	\$420,420	-	\$406,125
SES Band 4 (Department Secretaries/ Agency Heads)¹⁸	\$329,045	\$398,594	\$547,694	\$782,420	-	\$512,050

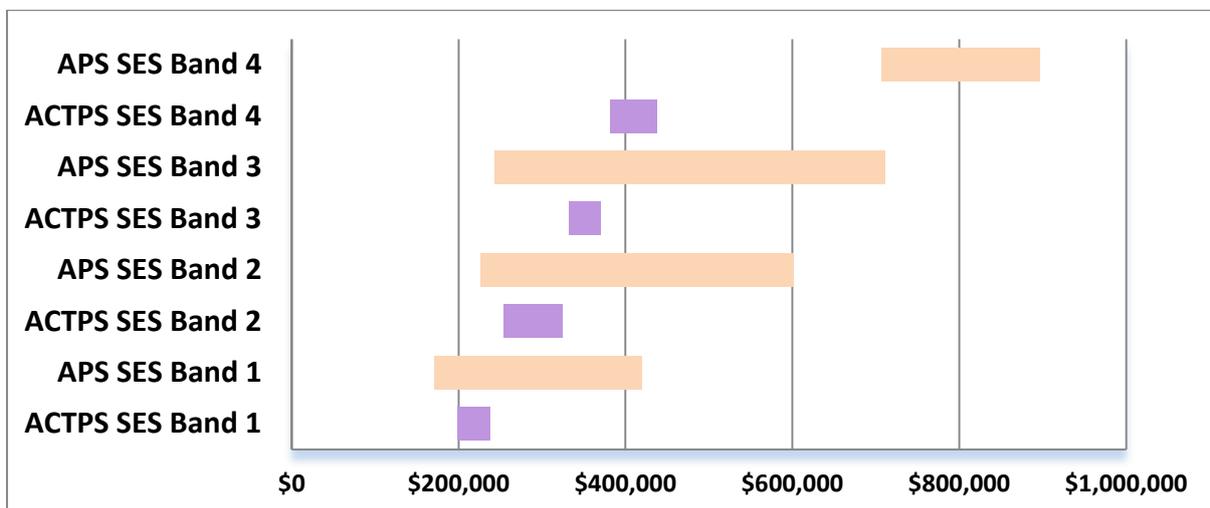
¹⁶ APS Remuneration Report 2017 p.52-55: https://www.apsc.gov.au/sites/g/files/net5296/f/18330_apsc_-_remuneration_report-accessible-v3.pdf

¹⁷ 2018 - 2019 NSW Public Service Senior Executive Remuneration Framework, Appendix 1 Senior executive base remuneration formulas and discretionary remuneration ranges (effective 1 July 2018), <https://www.psc.nsw.gov.au/employmentportal/compensation-and-benefits/2018/19-senior-executive-remuneration-management-framework/remuneration-framework-2018-2019>

Graph 5 – comparison of base salary bands for ACTPS and APS executives



Graph 6 – comparison of TRP bands for ACTPS and APS executives



While it is important for the ACTPS to be competitive with the APS, it is equally important to be competitive with its closest neighbour, NSW. As a result, the Tribunal was particularly interested in whether the ACTPS package would be competitive in attracting NSW Public Service executives into ACTPS SES positions.

¹⁸ The ACTPS SES Band 4 includes the Directors-General of ACTPS Directorates. APS SES Band 4 remuneration is determined by the Commonwealth Remuneration, Tribunal: <https://remtribunal.gov.au/media/documents/2019/2018-compilations/secretaries/remuneral-departmental-secretaries-classification-structure-and-terms-and-conditions-determination-2018-compilation-no.-1/Secretaries-Determination-2018-Compilation-No.-1.pdf>. The median is calculated based on the figures on page 5.

Table 5 above shows that the ACTPS is not currently directly competitive at each band compared to the APS and NSW. However, it is important that it is attractive, for example, for a band 1 executive in the APS or NSW to consider an opportunity or promotion as a more senior band 2 in the ACTPS. Similarly, a more junior or medium level band 2 in the APS or NSW may well see it as attractive to compete for a more senior band 3 position in the ACTPS. In its deliberations, the Tribunal is conscious of maintaining and increasing, where possible, the competitiveness and attractiveness of the ACTPS in this way, comparative to the APS and NSW.

Decision 9: The Tribunal, in its annual determinations, will monitor the competitiveness of the ACTPS executive with other jurisdictions, particularly the APS and NSW.

The Tribunal notes that, although the information gathered¹⁹ by Workplace Research Associates in 2017 was only a small representation of APS agencies across the Commonwealth, the information showed a slightly different picture of APS remuneration.

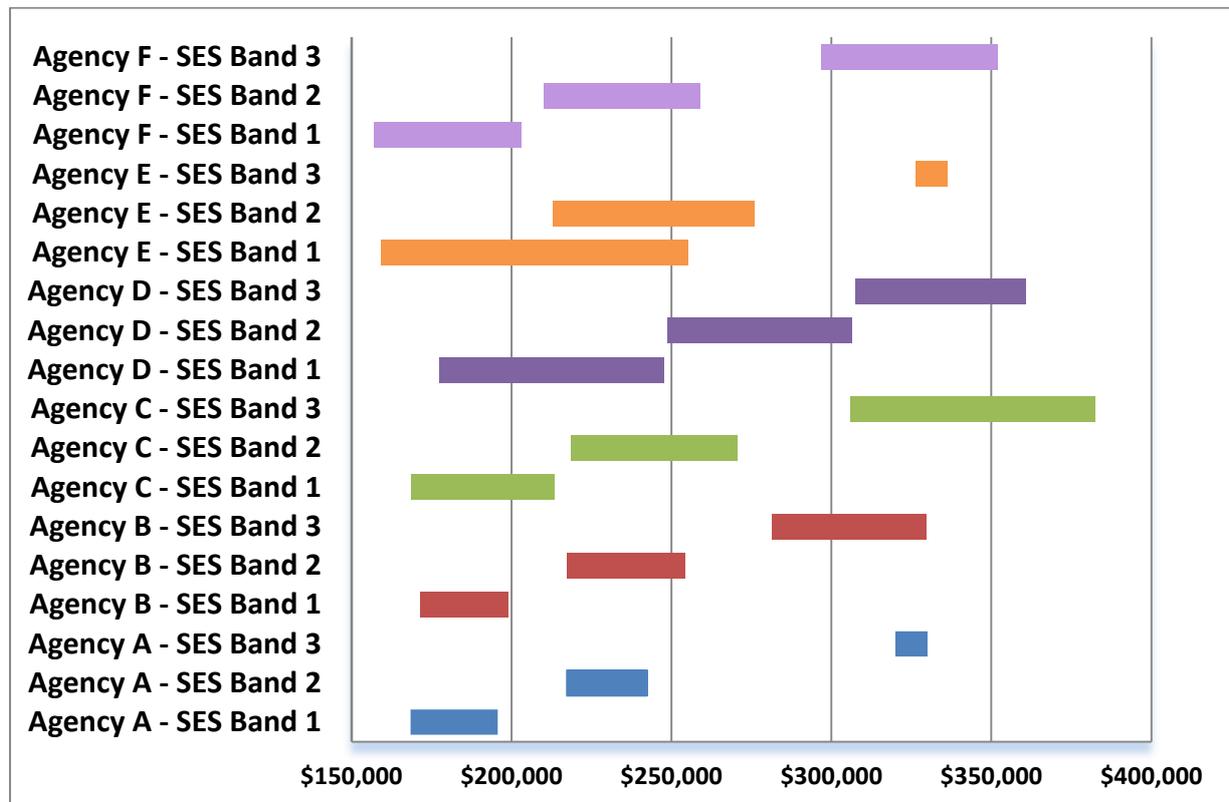
Table 6 shows the average base salary of the six APS departments surveyed by the Workplace Research Associates and Graph 7 provides a visual representation of the actual SES remuneration of the six APS departments.

Table 6 – base salary and TRP for APS executives across the agencies surveyed by Workplace Research Associates

Band	Base salary	Midpoint
SES Band 1	\$167,003 - \$218,968	\$192,986
SES Band 2	\$220,793 - \$268,077	\$244,435
SES Band 3	\$306,356 - \$348,535	\$327,446

¹⁹ Attachment G to the Discussion Paper:
https://www.remunerationtribunal.act.gov.au/_data/assets/pdf_file/0006/1106277/Attachment-G-Workplace-Research-Associates-ACTPS-SES-Remuneration-Research-Report1.pdf

Graph 7 – actual SES remuneration of the six APS departments obtained by Workplace Research Associates



Establishing a differential between the SOGA and Executive Level 1.1

The Tribunal recognises the need to maintain an appropriate differential between the ACTPS non-executive Senior Officer Grade A (SOG A) and the Executive Level 1.1. This differential should be sufficient to recognise the different levels of responsibility and work value, coupled with a significantly different employment offer resulting in an executive not having tenure, flex time or compensatory leave entitlements such as recovery leave (available to SOGA and SOGB in recognition of additional working hours) and leave loading.

At 1 July 2017, the gap in remuneration between the SOG A (\$137,415 per annum) and the Executive Level 1.1 (\$149,390 per annum) is \$11,975 per annum, which is approximately 8 per cent. The SOGA remuneration is approximately 92 per cent of the remuneration for an Executive Level 1.1.

At 1 July 2018, SOG A employees continued to receive \$137,415 per annum. However, based on the new Enterprise Agreements being approved by Fair Work Australia, at 1 July 2018, the salary for a SOG A employee would be \$141,210 per annum. This is compared to the Executive Level 1.1 at \$149,007 per annum. This is \$7,797 per annum, which is approximately 5 per cent. The SOGA remuneration is approximately 95 per cent of the remuneration for an Executive Level 1.1. At 1 July 2018, this gap has narrowed as a result of increases to the SOG A remuneration and the revised executive classification structure.

Having considered this development, the Tribunal considers that a gap of 5 per cent is insufficient to reflect the higher work value of the executive role and considers a gap of at least 7-8 per cent to be more appropriate.

The Tribunal notes that although SOGA employees are not entitled to a vehicle, payment in lieu of a vehicle, or parking (or payment in lieu of parking), they do have access to other benefits that are not available to executives. ACTPS non-executive employees, including SOGA, are entitled to an annual leave loading of 17.5 per cent. Consistent with most jurisdictions, ACTPS does not provide leave loading to its executives. SOGA employees are also eligible for five days non-cumulative recovery leave on 1 April each year. Recovery leave recognises extensive hours performed over a significant period because of the nature of their duties and responsibilities.

Decision 10: The Tribunal will continue to monitor the SOGA salary on a regular basis in order to maintain an appropriate differential and relativity, between it and the base of the ACTPS executive salary.

Additional salary in unusual or special circumstances

The PSM Standards provide a mechanism for the Head of Service to approve additional salary up to 10 per cent higher than the base salary to attract executives to the ACTPS and also as a retention strategy. When applied, this additional salary is included as base salary for the purpose of calculating superannuation contributions.

The PSM Standards provide a list of requirements that must be met in order for an additional salary to be approved. These are:

- that an executive position evaluation identifies that the base salary for a particular role is less than the salary applicable to similar roles outside the service; and
- that a previous selection process did not identify a suitable candidate; and
- that the proposed candidate possesses a qualification, skill or expertise that is uncommon and warrants a higher salary; and/or
- that the person's salary outside the service is above the relevant base salary.

The current rate of usage of this provision is less than 1 per cent of the ACTPS executive workforce.

The Tribunal notes that it is only used in exceptional circumstances. The Tribunal would be concerned if this provision were to be overused, as it could undermine the executive remuneration system and the Tribunal's legislative responsibilities.

The executives who receive the additional salary are detailed in the schedule tabled in the Legislative Assembly.

Decision 11: The Tribunal is of the view that there should be full transparency and visibility on the use of the additional salary provisions for executives. As these provisions are in the PSM Standards, this is a matter for the Government.

Enterprise Agreement negotiations

Analysis of executive remuneration increases in comparison to ACTPS increases achieved through enterprise bargaining shows that the rate of increases for ACTPS SES is out of step with non-executive staff. The enterprise bargaining negotiations have secured non-executive pay rises of 36.56 per cent during the 10 year period up to 2016 (the last remuneration increases provided by the 2013-17 enterprise agreements). In contrast, the cash component of ACTPS executive salaries has grown by 30.75 per cent over the same period (representing a difference of 5.81 per cent). Using the compounding methodology, these rates are 43.25 per cent and 35.39 per cent respectively (representing a difference of 7.86 per cent) to 2016 and are further increased to 55.32 per cent and 41.55 per cent (a difference of 13.77 per cent), based on the salary increases in the new enterprise agreements. Table 7 provides a breakdown of pay rises awarded since 2006 using the cumulative totals and compounding methodology.

Table 7 – breakdown of executive and non-executive pay rises since 2006

Financial Year	Executives (Remuneration Tribunal)	Executives (Remuneration Tribunal) Compounding	Executives (cumulative total)	ACTPS (Enterprise Agreement)	ACTPS (Enterprise Agreement) Compounding	ACTPS (cumulative total)
Assumed base		100.00			100.00	
2006-07	3.00%	103.00	3.00%	4.00%	104.00	4.00%
2007-08	4.00%	107.12	7.00%	4.00%	108.16	8.00%
2008-09	4.00%	111.40	11.00%	4.00%	112.49	12.00%
2009-10	1.50%	113.08	12.50%	4.00%	116.99	16.00%
2010-11	3.25%	116.75	15.75%	2.50%	119.91	18.50%
2011-12	2.50%	119.67	18.25%	3.50%	124.11	22.00%
2012-13	3.50%	123.86	21.75%	3.50%	128.45	25.50%
2013-14	2.00%	126.34	23.75%	2.00%	131.02	27.50%
2014-15	2.00%	128.86	25.75%	3.02%	139.98	30.52%
2015-16	2.50%	132.08	28.25%	3.02%	139.05	33.54%
2016-17	2.50%	135.39	30.75%	3.02%	143.25	36.56%
Sub-Total 2006-2016	30.75%	35.39%		36.56%	43.25%	
2017-18	2.00%	138.09	32.75%	2.761%	147.21	39.32
2018-19	2.50%	141.55	35.25%	2.718%	151.21	42.04
2019-20	-	-	-	2.718%	155.32	44.76
TOTAL 2006-2019	35.25%	41.55%		44.76%	55.32%	

The Government's pay offer for the ACTPS Administrative and Related Classifications Enterprise Agreement 2018-2021 (the Enterprise Agreement) covers a period of four years with percentage increases being provided at regular intervals. The first pay increase is to be back-paid to the first full pay period on or after 1 October 2017, with the second pay increase back-paid to the first full pay period on or after 1 June 2018.

The full offer is:

- 2.25 per cent from the first full pay period on or after 1 October 2017;
- 0.5 per cent from the first full pay period on or after 1 June 2018;
- 1.35 per cent from the first full pay period on or after 1 December 2018;
- 1.35 per cent from the first full pay period on or after 1 June 2019;
- 1.35 per cent from the first full pay period on or after 1 December 2019;
- 1.35 per cent from the first full pay period on or after 1 June 2020;
- 1.35 per cent from the first full pay period on or after 1 December 2020; and
- 1.35 per cent from the first full pay period on or after 1 June 2021.

This represents an **11.4 per cent increase** from 1 October 2017 to 1 June 2021. This percentage is compounding, not additive.

Decision 12: As part of the annual review of executive base salaries, the Tribunal will monitor the relativities between executive base salaries and the salaries for the non-executive ACTPS, as determined through the Enterprise Agreements.

In addition to the decisions outlined in Decision 6 to 12, the Tribunal will continue to consider the state of the economy, changes to legislation and functional responsibilities including work value, stakeholder submissions and discussions and Government submissions as its key principles as the basis for setting executive base remuneration in the annual determinations.

Vehicle and parking arrangements

From the establishment of the Remuneration Tribunal in 1996 through to 2006, the Tribunal was responsible for setting the allowance rates for payments in lieu of executive vehicles and car parking space. From 2006 these allowances have been provided through the PSM Standards and are no longer determined by the Tribunal.

Allowance in lieu of a vehicle

The Tribunal notes that the Government increased the rates for executive vehicles from 1 July 2018, bringing the allowance in lieu of a vehicle for an Executive Band 4 to an amount equivalent to the rate set for MLAs by the Tribunal. The rates for Executive Bands 3, 2 and 1 have also been increased to maintain rates relative to the Band 4. The revised rates are:

- Band 1: \$24,000 per annum;
- Band 2: \$24,500 per annum;
- Band 3: \$25,000 per annum;
- Band 4: \$25,500 per annum.

The allowance in lieu of an executive vehicle has always been a different rate depending on each band. It is understood that these arrangements have been in place for historical reasons and this approach has continued since they were introduced. According to the PSM Standards Explanatory Statement²⁰, there had been no adjustment to the allowance in lieu of a vehicle since 2014. During 2017-18 financial year, 88.8 per cent of executives elected to receive an allowance in lieu of a vehicle.

Whilst the increase to the rates is a positive step, the Tribunal has continued to give consideration to the small number of executives electing to receive a vehicle and the subsequent transaction and administrative costs that the Territory incurs.

As flagged in its Discussion Paper, following a review of entitlements for Members of the Australian Capital Territory Legislative Assembly (MLAs) undertaken in 2014, the Tribunal determined to remove the direct provision of a private plated vehicle, while providing an allowance of \$21,500 to enable MLAs to make their own arrangements. This adjustment was made given the significant difference between the actual costs of a motor vehicle supplied by the ACT Government and the value of the cash payment.

In 2015 the motor vehicle allowance for MLAs was increased by a further \$4,000 to the total of \$25,500. This increase was to reflect the actual costs of leasing and running a car.

²⁰ Explanatory Statement, Public Sector Management Amendment Standards 2018 (No.1)
https://www.legislation.act.gov.au/View/es/db_58516/20180628-69172/PDF/db_58516.PDF

In considering the executive vehicle allowance, the Tribunal has considered whether it may be appropriate to establish one rate of allowance for all executives rather than different allowance rates for each classification band. Some APS departments have a similar arrangement.

Based on the research undertaken by Dr Julie West, the allowance in lieu of a vehicle could be between the median and maximum allowance paid in the APS as follows:

	Median	Maximum
Band 1	\$25,000	\$35,000
Band 2	\$27,000	\$35,000
Band 3	\$30,000	\$35,000
Band 4	\$35,280	\$39,200

Decision 13: The Tribunal acknowledges that the ACT Government has responsibility for vehicle arrangements, including the allowance in lieu of an executive vehicle, and that this is outside the Tribunal’s jurisdiction. These arrangements are outlined in the PSM Standards. Notwithstanding this, the Tribunal recommends that the ACT Government:

- review and adjust rates on an annual basis;
- increase the rates to ensure competitiveness with the rates offered in the APS;
- apply one rate of allowance for all executives rather than different allowance rates for each band (this approach would be consistent with the arrangements for MLAs); and
- consider amending the PSM Standards to remove the provision of a vehicle and replace it with an allowance in lieu, similar to the arrangements for MLAs.

Car parking allowance

The allowance in lieu of a car park is set within the PSM Standards. The current car parking allowance rate of \$2,500 per annum was adjusted in 2008 and has not changed since that time. This is of concern to the Tribunal, particularly when considering or assessing the total remuneration package available to executives. The Tribunal recommends to the ACT Government that the rate be adjusted taking into account CPI increases. Based on the remuneration increases paid to executives since this time, the Tribunal estimates an allowance of \$3,000 – \$4,000 per annum is appropriate.

The Tribunal notes that in comparison, MLAs are provided a car parking space and no arrangements are in place to provide an allowance in lieu of a car park.

Decision 14: As the allowance in lieu of a car park is set in the PSM Standards, it is a matter for the Government. However, the Tribunal is of the view that the allowance in lieu of a car park should be established based on the current average cost of a car park and adjusted taking into account CPI increases.

Decision 15: The Tribunal will include a reference in the next determination for ACTPS executives which will refer to the conditions set in the PSM Standards and Enterprise Agreements to assist executives in having a full and complete understanding of their remuneration and entitlements in one central location.

Fringe Benefit Tax

As outlined in the Tribunal's Discussion Paper, an executive who elects to take a vehicle as part of their employment package, also has the operational costs of maintaining and running the vehicle covered by government. This benefit generates a fringe benefit tax liability for the executive, calculated under the Fringe Benefits Tax Assessment Act 1986.

The Tribunal's executive determination currently provides for an amount of \$7,000, provided by Government, to assist the executive in meeting this liability. If the actual liability is less than \$7,000 the unused difference is paid directly to the executive. If the liability exceeds \$7,000 the executive is not required to pay the excess to the employer. During the financial year 2017-18, 68.7 per cent of executives reached the full allocation, which suggests that the FBT payment should be higher.

To maintain a 'level playing field' for those executives who elect not to receive an executive vehicle an allowance of \$7,000 is currently paid to them.

The amount of \$7,000 has been in place since 2005 and has not been adjusted. Executives can elect to receive the FBT payment on a fortnightly basis or at the end of the financial year once a reconciliation has taken place. The Tribunal understands that the reconciliation process is time consuming, costly to manage and is administratively burdensome for the Territory. There would be merit in standardising the FBT payment so that it is standard practice for it to be paid on a fortnightly basis, for those executives receiving the allowance in lieu of the vehicle.

Decision 16: The Tribunal has decided to increase the FBT payment. The payment will be made on a fortnightly basis for executives that receive the allowance in lieu of a vehicle. The Tribunal will monitor this rate on an annual basis.

Salary Packaging

Salary packaging is a tax-effective way for employees to receive their salary as a combination of income and benefits. The income tax payable on the employee's pre-tax salary is replaced by a combination of income tax and FBT. The level of FBT depends on the type and value of the benefit items packaged. Benefits are paid from the employee's pre-tax salary.

All jurisdictions have some form of salary packaging arrangements for their executives. Victoria executives may agree to forgo part of their salary for non-salary benefits such as a motor vehicle obtained through the Executive Vehicle Scheme or through a Novated Leasing Arrangement, the Victorian Public Service health insurance scheme and superannuation²¹. Northern Territory have a provision for their executives to request for their employer to make additional contributions from their total remuneration package to a superannuation scheme by way of a salary sacrifice arrangement²². They may also package 'employment benefit' approved by the Commissioner for Public Employment²³.

In the ACT, executives may sacrifice all or part of their salary in return for the employer providing benefits of a similar value.

The Tribunal's determination provides that salary packaging arrangements must be consistent with taxation laws, guidelines issued by the ATO, and any salary packaging policy and/or procedures issued for the ACTPS. The PSM Standards state that salary sacrifice arrangements for SES members are the same arrangements as non-executives for arrangements mentioned in clause D1 of the ACT Public Service Enterprise Agreement 2013-2017²⁴.

Decision 17: The Tribunal does not recommend any changes to salary packaging arrangements as a result of this review. However, given that the ACTPS Salary Packaging Policy has been in place since 2015, the Tribunal is of the view that it is timely to undertake a review and recommends that the review should be conducted in conjunction with a review of the Shared Services Salary Packaging Manual to ensure consistency in these policy requirements is maintained across the ACTPS.

²¹ Victorian Public Service Executive Employment Handbook: <https://vpvc.vic.gov.au/wp-content/uploads/2016/06/Victorian-Public-Service-Executive-Employment-Handbook.pdf>

²² Northern Territory Public Sector Employment and Management Act Determination 13 of 2011, <https://ocpe.nt.gov.au/nt-public-sector-employment/information-about-ntps-employment/executive-contracts>

²³ Ibid

²⁴ PSM Standards

Relocation Allowance

Relocation allowance is provided to assist an executive with relocation and the cost of moving their residence to the ACT or surrounding area to take up a position with the ACTPS. It does not apply to any expenses incurred at the conclusion of employment. The Tribunal's determination provides a prescriptive list of costs that may be reimbursed to executives. The maximum relocation allowance amount they may be reimbursed is currently set at \$51,533. This rate was established in 2012 and has not been adjusted since.

Reimbursement of relocation expenses is common across the other jurisdictions. Commonwealth Department Secretaries who move to Canberra to take up their positions are eligible for removal, relocation and family reunion assistance. This includes 'transportation of the Secretary and the Secretary's partner and dependants from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason and the insured removal of the furniture, household effects and domestic animals of the Secretary and the Secretary's partner and dependants from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary'²⁵.

Commonwealth Secretaries are also entitled to settling in and settling out allowances, reunion travel, and accommodation support up to the amount of \$34,500 if they continue to maintain a residence at their home locality²⁶. For other Commonwealth senior executive officers, it is the employing Department that decides any relocation benefits.

In the ACTPS, non-executive employees may be eligible for reimbursement of reasonable relocation expenses. Their reimbursement costs are capped at \$12,000 for an employee with no dependants. If the employee has dependants, an amount for each dependant is added to the employee's cap (between \$1,750 and \$2,000 per dependant).

In NSW, relocation expenses are only available where the executive is considered to be an 'outstanding' candidate and it would be unreasonable to require the executive to relocate without the support²⁷. The NSW Government Sector Executive Relocation Expenses Framework provides for reimbursement of 'reasonable actual relocation expenses' and 'contribution to reasonable eligible expenses' up to tier caps²⁸, which are adjusted in line with CPI movements²⁹.

²⁵ Australian Government Remuneration Tribunal (Departmental Secretaries-Classification Structure and Terms and Conditions) Determination 2018, Part 7, <https://www.remtribunal.gov.au/media/documents/2019/2018-compilations/secretaries/remuneral-departmental-secretaries-classification-structure-and-terms-and-conditions-determination-2018-compilation-no.-1/Secretaries-Determination-2018-Compilation-No.-1.pdf>

²⁶ For Secretaries who maintain a place of residence outside of Canberra, they are entitled to up to 12 business class return airfares between Canberra and the nearest capital city to their place of residence during each 12 month period of their appointment for the purposes of reunion.

²⁷ NSW Government Sector Executive Relocation Expenses Framework, <https://www.psc.nsw.gov.au/employmentportal/senior-executives/relocation-expenses-framework/executive-relocation-expenses-framework/introduction/purpose>

²⁸ Maximum cap of up to \$65,000 for a Tier 1 role and up to \$25,000 for a Tier 2 role.

²⁹ *ibid*

There are no set criteria of costs that may be reimbursed and the Head of Service has discretion to decide what is a 'reasonable' relocation expense. If the employee terminates their employment with an ACTPS business unit within twenty four months of the date of appointment and does not commence employment with another ACTPS business unit within one month, the employee may be required to repay the reimbursed amount in full or part³⁰.

The Tribunal noted in its Discussion Paper that there are currently no arrangements in place for executives to repay the relocation allowance in situation where an executive ceases employment with the ACTPS within a certain timeframe. It is the Tribunal's view that the same arrangements that apply to non-executive employees should apply to SES and this should be a requirement in their Determination.

In the Discussion Paper, the Tribunal set out its views about continuing with the payment of stamp duty and legal and professional fees associated with buying and selling a residence at the former location and the ACT. The Discussion Paper canvassed the Commonwealth Remuneration Tribunal recent amendments to their relocation allowance for Commonwealth Department Secretaries. It also discussed the ACT's tax reform in relation to the reduction of stamp duty levels to one of the lowest across Australia. The Tribunal has decided to continue allowing stamp duty and legal and professional fees to be claimed as part of the relocation allowance.

In discussions with the SES, the Tribunal notes the views of some SES members that the relocation allowance should only be payable to executives who select Canberra as their place of residence, not the broader ACT and surrounding regions. There is a view that this approach would promote executives living in Canberra and assist the local economy. However the Tribunal is of the view that this would be inconsistent with the Government's regional strategy.

Decision 18: The Tribunal will monitor and review the relocation allowance each year.

The Tribunal will include a repayment provision in its Determination if an executive leaves the ACTPS. Under the new arrangements, executives that leave the ACTPS within the first six months will be required to pay back 100 per cent of the relocation allowance.

Executives that leave the ACTPS within 12 months will be required to pay back 50 per cent of the relocation allowance. This would be consistent with the repayment of reimbursement of reasonable relocation expenses provision that applies to non-executive employees in the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2018-2021.

³⁰ ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017 provides that employee may be required to repay 100% of the reimbursement amount if they terminate employment within twelve months from the date of appointment and 50% of the reimbursement amount if they terminate employment more than twelve months and less than twenty four months from the date of appointment.

Leave entitlements

The leave entitlements for ACTPS executives are provided under the PSM Standards. The provision under the PSM Standards provides that the leave entitlements for executives are those mentioned in the current ACT Public Service Administrative and Related Classifications Enterprise Agreement.

Currently, SES are entitled to 20 days of annual leave and 18 days of personal leave during each year of service, which appears to be consistent with executive leave entitlements in other jurisdictions. Executives are also entitled to other leave types such as long service leave, compassionate leave and grandparental leave.

The ACTPS offers its executives 52 weeks of maternity leave, which is consistent with all other jurisdictions. The ACTPS has a higher paid maternity leave entitlement than most other jurisdictions. The paid leave provision provide for 18 weeks paid leave, which can be accessed as half pay over 36 weeks.

Decision 19: The Tribunal notes that the executive leave entitlements are consistent with other jurisdictions, and in some cases (such as personal leave and paid maternity leave) are more beneficial. The Tribunal's Determination is currently silent on leave entitlements. The Tribunal is of the view that the inclusion of a clause about leave entitlements within the section on employer-provided benefits will clarify the entitlements in one central location.

Other entitlements

In addition to the total remuneration package, the Tribunal is aware of additional arrangements that apply to executives in the ACTPS and in other jurisdictions, as part of their employment. The Tribunal is of the view that directorate discretion should be used when considering what type of other entitlements should be available to individual executives.

Decision 20: The Tribunal considers that the provision of other executive entitlements is a matter for the relevant Directorate and the Head of Service. However, its strong view is that there should be consistency in the application of these entitlements and arrangements.

Travelling arrangements

The PSM Standards outline travel arrangements for all ACTPS officers and employees who travel for official purposes³¹. These arrangements have been established to ensure that employees undertake official travel in an efficient, effective, ethical and responsible way particularly when using public funds. As the travel arrangements for executives are provided in the PSM Standards, the Tribunal does not have oversight of these travel arrangements.

The Government's travel arrangements are based on a reimbursement model, and not an allowance or travel card model which is in place in the APS or other jurisdictions. The Tribunal has received some feedback that there are some issues associated with international travel and currency conversion. The Government may wish to consider exploring options for a small allowance for international travel purposes, based on the ATO determinations. However, the Tribunal notes that, as the Government sets the travel arrangements in the PSM Standards, this is purely a matter for the Government to decide and is outside the Tribunal's jurisdiction.

Decision 21: The Tribunal acknowledges that the Government has responsibility for travel arrangements which are contained in the PSM Standards and are outside the Tribunal's jurisdiction. Notwithstanding this, the Tribunal recommends to the Government that it would be beneficial to consider a small allowance for international travel purposes consistent with the ATO's determinations.

Training and professional development

The ongoing and future effectiveness of the ACTPS rests on the ability of executives to demonstrate leadership to create productive working environments that engage staff and foster collaboration, innovation, communication, responsiveness and thinking outside the square.

The Discussion Paper set out the details of the leadership and development opportunities available to all ACTPS executives, which includes access to Australia and New Zealand School of Government programs, mentoring programs and a range of professional development activities.

³¹ Part 7.1 (Travel – domestic and international), *Public Sector Management Standards 2006* (repealed), <http://www.legislation.act.gov.au/di/2006-187/20160901-64740/pdf/2006-187.pdf>

In 2015, the ACTPS launched a suite of professional development events to support their executives to lead an agile, responsive and innovative public service into the future. In 2018 the number of events doubled from the previous year. The eight events were designed to increase the capability of executives to innovate change, encourage staff empowerment and collaboration, and to lead by example. These events were focussed on community engagement, digital transformation, collaboration with the National Capital Authority and leadership.

These events also act as a networking opportunity for SES from across the Service, and are a useful attraction and retention initiative.

Decision 22: The Tribunal notes that the current training and professional development opportunities appear appropriate, reasonable and contemporary. The Tribunal makes no recommendations about this matter at this time.

Next Steps and Further Action

The Tribunal has used the findings of this review in its annual Autumn Review of remuneration for executives; the results of which are being released at the same time (see Determination 2 of 2019).

Executives, directorates and other interested stakeholders are encouraged to consider the Tribunal's findings in this report and the Determination.

Any feedback about the setting of executive remuneration, allowances and other entitlements can be provided to the Tribunal through the Secretary at remtrib@act.gov.au. The Tribunal will consider feedback at its annual Spring or Autumn Review.

The Tribunal will raise with the Chief Minister and the Head of Service those issues and concerns raised during this review that are not within the responsibilities of the Tribunal, but are responsibilities of the Government and the Head of Service.



Australian Capital Territory Remuneration Tribunal

Determination 9 of 2018

Head of Service, Directors-General and Executives

made under the

Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

ACCOMPANYING STATEMENT

Background

Under section 10 of the *Remuneration Tribunal Act 1995* (the Act), the Remuneration Tribunal (the Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for holders of certain public offices. This includes the Head of Service, directors-general and people engaged as an executive (known collectively as executives) under the *Public Sector Management Act 1994*.

Considerations

During 2017, the Tribunal initiated a *Major Review: ACT Public Service Executive Remuneration, Allowances and Other Entitlements*, with a discussion paper released in September 2017. The Review is continuing with a number of issues, including travel entitlements to be further examined during 2018. A final report is expected by the end of the year.

The Government has advised the Tribunal that a new executive classification structure will commence from 1 July 2018. The new executive classification structure is being introduced through amendments to the *Public Sector Management Standards 2016*.

A new four band 16 point executive classification structure is being introduced from 1 July 2018. As part of implementing the new structure, the Tribunal is required to set remuneration for four new levels 1.1, 2.1, 3.1 and 4.1 as well as translate the existing remuneration from Determination 3 of 2018 to the new executive structure. The remuneration has been translated into the new structure as outlined in Table 2.1 of this Determination.

Decision

The Tribunal has set remuneration for the new executive structure from 1 July 2018 as outlined in this Determination.

29 June 2018



Australian Capital Territory Remuneration Tribunal

Determination 9 of 2018

Head of Service, Directors-General and Executives

made under the

Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

1 Commencement

1.1 This instrument commences on 1 July 2018.

2 Remuneration

2.1 Column 1 in Table 2.1 shows the equivalent levels between the old and new executive structure as outlined in the *Public Sector Management Standards 2016*. A person engaged at the new executive classification level listed in column 2 of Table 2.1 is entitled to the remuneration mentioned in column 3 of Table 2.1.

TABLE 2.1

Column 1 Old Executive classification level	Column 2 New Executive classification level	Column 3 Remuneration
Level 3.12 (Head of Service)	Level 4.4 (Head of Service)	\$364,398
Level 3.11	Level 4.3	\$337,862
Level 3.10	Level 4.2	\$320,228
-	Level 4.1	\$313,608
Level 3.9	Level 3.4	\$304,474
Level 3.8	Level 3.3	\$288,726
Level 3.7	Level 3.2	\$273,057
-	Level 3.1	\$269,796
Level 2.6	Level 2.4	\$263,216
Level 2.5	Level 2.3	\$225,891
Level 2.4	Level 2.2	\$210,138
-	Level 2.1	\$199,397
Level 1.3	Level 1.4	\$184,627
Level 1.2	Level 1.3	\$168,878
Level 1.1	Level 1.2	\$153,125
-	Level 1.1	\$149,007

- 2.2 If a person engaged at a level listed in column 2 of Table 2.1 is also engaged in or appointed to another office, which is not a second job under the *Public Sector Management Act 1994*, the person must only receive remuneration for the office that has the highest remuneration.

3 Salary packaging

- 3.1 An executive may elect to take the remuneration mentioned in column 3 of Table 2.1 as:
- a) salary; or
 - b) a combination of salary and other benefits (a *salary package*).
- 3.2 Salary packaging must be consistent with:
- a) taxation laws and guidelines issued by the Australian Taxation Office; and
 - b) any salary packaging policy and/or procedures issued for the ACT Public Service, with up to 100% of the remuneration able to be taken as benefits and related costs such as fringe benefits tax.
- 3.3 If an executive is working for a Public Benevolent Institution, the benefit items that normally incur fringe benefits tax must not incur more than \$17,000 grossed up taxable value per fringe benefits tax year, without prior approval from:
- a) for directors-general—the head of service; and
 - b) for executives—the relevant director-general.
- 3.4 Salary packaging must be administered without additional cost to the employer and any fringe benefits tax associated with the provision of a benefit must be included in the salary package.
- 3.5 Salary for superannuation purposes is not affected by salary packaging.

4 Employer provided benefits

- 4.1 An executive is entitled to either the employer provided benefits mentioned below or the relevant cash payment in lieu of the benefit mentioned below.

Note: employer provided benefits or cash payment in lieu of the benefit do not change the remuneration component of the total remuneration package.

Note: travel entitlements are provided under the *Public Sector Management Standards 2006 (repealed)*.

Vehicle

- 4.2 An executive is entitled to a vehicle and associated arrangements, including a parking space in accordance with the *Public Sector Management Standards 2016* and the *Guidelines for the Management and Use of Executive Vehicles*.

Employer's superannuation contribution

- 4.3 An executive is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 4.4 An executive who is a member of the Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation (PSS) Scheme:
- a) the person's annual rate of remuneration for the purpose of the scheme is the base remuneration as provided in clause 2.1 of this Determination; and

- b) the value attributed to the employer's superannuation contribution is taken to be a notional 16% of the person's base remuneration.
- 4.5 For an executive who is not currently a member of the CSS or PSS but was a member of the PSS Accumulation Plan (PSSap) until it closed to the Territory on 30 June 2006, and has maintained continuous employment with the Territory:
- a) the value of the employer's superannuation contribution is a notional 16% of the base remuneration as provided in clause 2.1 of this Determination; and
- b) the employer will contribute that amount to an agreed superannuation fund nominated by the executive.
- 4.6 For an executive who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate no less than the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992*.
- 4.7 For 2016-17 onwards, the Territory's enhanced minimum employer superannuation contribution is 10.5%, as amended from time to time.
- 4.8 Section 53 of the *Public Sector Management Standards 2016*, or this section's replacement, applies to persons who are not current CSS or PSS members or appointed to or engaged by the Territory before 30 June 2006 and maintained continuous employment with the Territory.
- 4.9 The value of the employer's superannuation contribution must not be paid in cash to an executive.

Fringe benefit tax

- 4.10 The fringe benefits tax payable by the employer to the Australian Taxation Office is the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the *Fringe Benefits Tax Assessment Act 1986*.
- 4.11 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2016* are considered for calculating fringe benefits tax.
- 4.12 A provisional amount of \$7,000 is available to cover the cost of any fringe benefit tax for a vehicle or parking space. If the liability for fringe benefits tax is less than \$7,000, the excess is payable to the executive. If the liability for fringe benefits tax exceeds \$7,000, the executive will not be required to pay the excess to the employer. Any unused fringe benefit tax allowance paid to an executive will be subject to tax, if paid as remuneration.
- 4.13 The provisional amount of \$7,000 in fringe benefits tax is reduced proportionally if the executive is engaged for less than a fringe benefit year.

5 Relocation allowance

- 5.1 In this clause:
ACT includes the surrounding district, including Queanbeyan.
relocation means from a residence outside the ACT to a residence in the ACT.
- 5.2 Relocation allowance is provided to assist an individual with relocation.
- 5.3 Relocation allowance will not cover the total cost of relocation in all circumstances.

- 5.4 The maximum relocation allowance is \$51,533.
- 5.5 If a person relocates because of an engagement as an executive, the person is entitled to be reimbursed up to the maximum relocation allowance, for receipted, reasonable costs of the following:
- a) packing personal effects and furniture belonging to the person and their family;
 - b) necessary storage of personal effects and furniture;
 - c) removal costs and associated insurance of personal effects and furniture;
 - d) unpacking of personal effects and furniture;
 - e) costs of travel, accommodation and meals between the former location and the ACT;
 - f) temporary accommodation costs at the former location and in the ACT up to a maximum aggregate period of six months, or, in exceptional circumstances, nine months with the approval of the ACT Remuneration Tribunal (Tribunal);
 - g) costs of disconnection and reconnection of utilities;
 - h) cost of stamp duty and legal and professional services associated with the sale of the residence at the former location and/or the purchase of a residence or lease on a block of land in the ACT;
 - i) subject to the specific approval of the Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 5.6 The maximum relocation allowance may be exceeded if the Tribunal agrees—
- a) there are unusual or exceptional circumstances; and
 - b) the unusual or exceptional circumstances were unforeseen or unable to be dealt with without exceeding the maximum relocation allowance.
- 5.7 If an executive thinks that unusual and exceptional circumstances exist, they may ask the Tribunal to consider the matter and determine whether the maximum relocation allowance can be exceeded. A request must be in writing and must include—
- a) details of the unusual or exceptional circumstances; and
 - b) details of the relocation; and
 - c) expenses incurred by the executive; and
 - d) the expected total relocation expenses of the executive; and
 - e) the level of assistance the executive considers should be provided; and
 - f) any other relevant information.
- 5.8 Relocation allowance does not apply to any expenses incurred at the conclusion of employment.

6 Other entitlements

- 6.1 For the avoidance of doubt, under section 113 and 115 of the *Public Sector Management Standards 2016*, the following provisions of the *Public Sector Management Standards 2006 (repealed)* continue to apply to executives:
- a) part 3.6 (recognition of prior service on appointment or engagement);
 - b) part 4.1 (continuity of service);
 - c) part 5.5 (payment in lieu of entitlements on cessation of employment or death);

- d) part 9.6 (executive employee and statutory office-holder leave and other entitlements).

7 Definitions

7.1 In this Determination:

agreed superannuation fund means a fund complying with the requirements of:

- the *Income Tax Assessment Act 1936* (Cth); and
- the *Superannuation Industry (Supervision) Act 1993* (Cth).

CSS means the Commonwealth Superannuation Scheme.

employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory.

executive means the Head of Service, a Director-General or an ACTPS Executive.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

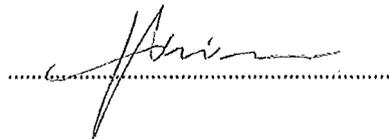
PSS means the Public Sector Superannuation Scheme.

total remuneration package includes remuneration set out in Table 2.1, all employer provided benefits, and all allowances. The value of an allowance or entitlement set out in this Determination is fixed and cannot be transferred to another other component of the total remuneration package.

8 Revocation of previous Determination

8.1 Determination 3 of 2018 is revoked.

Dr Colin Adrian
Chair



Mr James Smythe PSM
Member



Ms Sandra Lambert AM
Member



29 June 2018