



8 March 2012

Ms Robyn Unger
Secretary
ACT Remuneration Tribunal
PO Box 964
CIVIC SQUARE ACT 2608

Dear Ms Unger

**REMUNERATION OF DIRECTOR OF PUBLIC PROSECUTIONS
REMUNERATION TRIBUNAL ACT 1995**

I refer to your letter of 17 February 2012 inviting submissions.

I wish to make a submission to the tribunal concerning the remuneration paid to the Director of Public Prosecutions.

The submission has two aspects, comparison with other Australian DPP's, and issues of relativity within the Territory.

Overview - Position of the Director of Public Prosecutions

The Director of Public Prosecutions has the following important functions:-

- Act independently of government;
- Exercise important statutory functions in the public interest;
- Take responsibility for the fearless and independent prosecution of difficult, controversial and high profile matters. Those matters could involve persons in high office;
- Appear personally to prosecute complex matters, and conduct appeals, against counsel of the highest calibre. These are generally matters where leadership is required to be demonstrated for example murder trials;

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- Take responsibility for the management of the indictable and summary prosecution of matters in the Territory;
- In relation to staff of the Office, exercise the powers of the head of service relating to the appointment, engagement and employment of people; and the powers of a director-general;
- Manage the Office of the DPP.

The independence of the DPP is a cornerstone of our system of government. In his recent review of the ACT Public Service, Dr Hawke noted that the DPP was an office whose role at arm's length from the government was "part of the foundation of the ACT's system of government and accountability frameworks". [Hawke report p. 103].

Comparison with other DPPs

In every other Australian jurisdiction - including those smaller jurisdiction with which the ACT can most usefully be compared - the independence of the DPP is marked by ensuring that the DPP has parity with the terms and conditions of a judge of the Supreme Court.

The ACT DPP has the same functional responsibilities as other DPP's, the only difference being that the ACT DPP has in addition, responsibility for conducting prosecutions in the Magistrates Court. No other DPP has that responsibility.

A particular point of comparison would be with the remuneration of DPP in comparable smaller jurisdictions.

The remuneration of the Tasmanian DPP is linked statutorily to the base salary of the Chief Justice of Tasmania. It should be noted that the Tasmanian DPP is responsible for 38 staff (from last available annual report) as against 66 for the ACT DPP. Functionally the offices are equal except Tasmania lacks responsibility for the summary prosecutions in the jurisdiction.

In Northern Territory, the independence of the Office of the DPP is marked by appointing the DPP upon the terms and conditions accorded to a Supreme Court judge. The staff numbers of ACT and NT DPP offices are similar.

It is notable that judges and magistrates in the ACT are paid at rates similar to their interstate colleagues. Any arguments about the attractiveness of the position to interstate applicants which apply to judges and magistrates apply with equal force to the DPP's position.

All this suggests that the appropriate rate of remuneration for the ACT DPP is at a level similar to judges in the Territory.

Issues of Relativity

A work value review for prosecutors employed by my office has now been completed. A new scale has been put into effect in the recent DJACS Enterprise Agreement 2011-13. This has seen substantial increases in the rates of pay for prosecutors in the Territory across the board.

In particular, a new grade of prosecutor – Grade 5 prosecutor – has been created as a non SES grade. The top of the band of a Grade 5 prosecutor is now \$146,450. This rises to \$151,576 from 1 July 2012.

As part of the work value review, a Work Value Assessment and Classification Advice has been obtained from Mercer, an independent human resource consultancy, for the Assistant Director positions in the Office. Mercer has assessed that the role be classified at an SES 2.4, up from its present classification of 1.2.

The significant elevation of remuneration for both the non - SES and SES roles within the office gives rise to obvious issues of wage relativity with the Director's position.

There has also been a loss of relativity with the remuneration of both the Chief Magistrate and the Master of the Supreme Court.

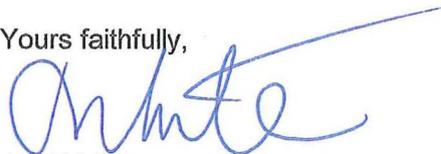
Summary

It is submitted that the appropriate level of remuneration for the position both to recognise the importance of the functions it performs, and to reflect a proper comparisons with other Australian jurisdictions, is similar to that of a judge in the Territory.

In any event there should be an increase to retain relativity to positions both within the office and within the Territory generally.

I should be pleased to expand on any of the matters herein if necessary.

Yours faithfully,



Jon White
Director of Public Prosecutions