

Ms Anne Cahill Lambert, AM
Chair
Australian Capital Territory Remuneration Tribunal
PO Box 964
Civic Square
ACT 2608

Dear Ms Cahill Lambert

I am writing in relation to the Tribunal's review of the remuneration and the entitlements of the Clerk of the Australian Capital Territory Legislative Assembly.

Increased size of the Assembly

As you would be aware the number of the Members of the Legislative Assembly will increase by eight MLAs to a total of 25 MLAs from October this year which represents a 47% increase. It will bring the Assembly into line with both the Northern Territory Legislature (25 MLAs) and the Tasmanian Parliament (25 MHAs and 15 MLCs), as well as the South Australian Legislative Council (21 MLCs).

Currently, the Clerk of the ACT Legislative Assembly receives approximately \$196,000 as salary. The Remuneration Tribunal may wish to give consideration to that level of salary so that it sits more appropriately in comparison to the Clerks of other Parliaments.

As can be seen from the Table below, the current salary for the ACT Clerk compares to the following clerks in similar jurisdictions:

Parliament	No of Members	Salary	Car	Superannuation	Annual leave
Northern Territory	25	\$297,321- \$326,298	\$5422 contribution	9.50%	5 weeks
Tasmania	House 25 Council 15	\$220,703- \$264,842	Fully maintained private plated vehicle provided	9.50%	6 weeks
South Australia	House 47 Council 21	\$217,019*	Available to be deducted from package as salary sacrifice	9.00%	6 weeks
ACT	25 (from October 2015)	196,091	Provided or allowance of \$19,500	10%	4 weeks

*includes allowance for Secretary Joint Parliamentary Services Committee of \$12,584 which rotates between the Clerks.

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Whilst the ACT Clerk's salary has always been less, in relative terms, than those of the larger parliaments due to its smaller size, you will note that there are significant differences between the ACT Clerk's salary compared with the Clerks of Parliaments of similar size.

I am aware that the Remuneration Tribunal has, in the past, given significant weight in its determinations to making the remuneration of ACT MLAs comparable to similar office holders in other jurisdictions. The Tribunal commented in 2005 that:

The Tribunal was mindful of its work over the past few years to ensure that the level of remuneration for Members of the Legislative Assembly sufficiently reflects the function and importance of the office, and to ensure appropriate relativity with the remuneration paid to parliamentarians in other jurisdictions (*Statement No 171, dated April 2005*).

...the Tribunal has consistently stated its long term objective of bringing the level of remuneration to ACT parliamentarians to one which is comparable with similar office holders in other jurisdictions. (*Statement No 62, dated July 2000*)

This places ACT Members of the Legislative Assembly at a comparable level to Members of the Tasmanian Parliament, but still behind all other State and Territory colleagues (*Statement No 30, dated June 1998*).

It is my contention that the remuneration of the Clerk of the Legislative Assembly must similarly be considered in light of other jurisdictions and remain comparable with those positions. In so many respects, the work requirements for Clerks is similar irrespective of the size of the Parliament, and there is a requirement to respond to similar demands of the House and its Members in regard to procedural, advisory and administrative matters.

Other Tribunals have taken a similar approach in relation to the remuneration of the Clerk. The Tribunal might be aware that in a determination in relation to Clerks of the Western Australian Parliament, the Salaries and Allowances Tribunal on 4 April 2007 stated, when increasing the salaries of the Clerks that:

For this determination, the remuneration for the Clerks and Deputy Clerks has been considered almost exclusively by reference to parity with identical positions in the other Parliaments in Australia.

Whilst it is recognised that it is important to set remuneration for statutory office holders in the Territory commensurate with similar offices and Chief Executives, the Clerk of the Legislative Assembly is a specialist position requiring significant parliamentary experience. In most cases, that parliamentary experience is obtained either in the Territory legislature or in other parliaments around Australia.

The increased size of the Assembly will place additional pressure on the Clerk (and OLA) in terms of providing advice and support to the extra eight members and their (approximately) 20 staff.

Appointment as Registrar of Lobbyists

In August 2014 the Assembly agreed to an ACT Lobbying Code of Conduct and on 25 September 2014 the Assembly agreed to a Lobbyist Registrar and associated guidelines. Both of these continuing resolutions place responsibility of administering the Lobbyists Register with the Clerk who is required to:

- be the Registrar of Lobbyists
- establish and maintain a register of lobbyists and internet site
- decide whether a lobbyist or the other registered person is precluded from being placed on the lobbyists' registrar or whether a lobbyist should be removed.

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- handle any complaints as to whether the lobbyists' code or guidelines have been breached.

The Legislative Assembly Lobbyists regime is the only one in Australia that applies to lobbying Members- all others (except for some MPS in QLD) cover only the lobbying of Ministers. In addition the ACT is the only jurisdiction where the scheme is administered by the Clerk of the Legislature. All others (NT doesn't have a lobbyist register) are administered by either executive departments or electoral commissioners.

Whilst the administration of the register has not proved too onerous to date, it has the potential to add a significant degree of complexity to the Clerk's duties if/when issues arise with the scheme.

Additional roles of the Clerk

In October 2013 the Assembly passed a resolution that provided for the appointment of a Commissioner for Standards to investigate breaches of the code of conduct for Members or the rules relating to the registration or declaration of interests. The ACT is the only jurisdiction in Australia to have such a position.

Under the scheme the Clerk is required to:

- provide advice to the Speaker (or in the case of a complaint against the Speaker, the Deputy Speaker) as to whether there is sufficient evidence to justify any investigation by the commissioner.
- liaise with the Commissioner and assisting him while his investigation is being undertaken
- liaise with Members about the progress of the inquiry
- assist the Standing Committee on Administration and Procedure when it considers the Commissioner's report.
- draft the committee's report.

The extra duties for the Clerk in relation to the Commissioner for Standards are both complex and sensitive.

In 2013 the Assembly passed the Officers of the Assembly Legislation Amendment Bill 2013 which designated the Electoral Commissioner, Auditor General and Ombudsman as Officers of the Assembly reporting to the Speaker. The Speaker (not the Executive) is now responsible for the appointment of these officers, transmitting those officers' budgets to the Treasurer, conducting a strategic review of the Auditor General's Office and receiving their annual reports amongst other things.

As the principal adviser to the Speaker, the Clerk, since the passage of the Act, and other senior officers of OLA have had to provide the Speaker with advice on matters relating to the operation of the Officers of the Assembly scheme.

Minor corrections to the determination

Could I suggest some minor changes to the determination:

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- Para 4.19 Reference to "secretariat staff" should be changed to "OLA staff" as the secretariat no longer exists.
- Para 4.20 Reference to "secretariat staff" should be changed
- Para 4.21 Reference to "Legislative Assembly Secretariat" should be changed to "Office of the Legislative Assembly".
- Para 6.8 References to "a Minister" (twice occurring) should be changed to "the Speaker" as the Clerk does not travel with ministers, but often with the Speaker.

I would be happy to discuss any aspect of this submission with the Tribunal.

Yours sincerely

Tom Duncan
Clerk of the Legislative Assembly
18 February 2016

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