



Ms Robyn Unger
Secretary
ACT Remuneration Tribunal

Via email
remtrib@act.gov.au

Dear Ms Unger

Re: Annual Review of Remuneration and Allowances

Thank you for the opportunity to make a submission to the ACT Remuneration Tribunal's annual review of remuneration and allowances. We make this submission as full-time public office holders under s.10(1) of the *Remuneration Tribunal Act 1995* and we have never made a submission in the past. Our decision not to provide a submission last year meant that we did not take the opportunity to provide feedback to the Tribunal. We note that Determination 18 of 2011 resulted in no increase in remuneration for public office holders.

About the ACT Human Rights Commission

The Human Rights Commission was established to promote the human rights and welfare of people living in the ACT. There are three Commissioners who each have specialised and equal roles in the Commission:

- Dr Helen Watchirs – Human Rights and Discrimination Commissioner
- Mr Alasdair Roy – Children and Young People Commissioner
- Ms Mary Durkin – Health Services Commissioner, and Disability and Community Services Commissioner.

The Commission's role is to take complaints in relation to the following areas:

- Health Services;
- Services for older people;
- Services for people with a disability;
- Services for children and young people;
- Services for carers of children and young people, older people, people with a disability, and people accessing health services; and
- Discrimination and Sexual harassment.

The Human Rights and Discrimination Commissioner also provides community education and information about human rights. She also reviews the effect of ACT laws on human rights and advises

the Attorney-General on the operation of the Human Rights Act 2004.

The Health Services Commissioner's functions also include to promote:

- improvements in the provision of health services and services for older people
- the rights of users of health services and services for older people
- an awareness of the rights and responsibilities of users and providers of health services and services for older people.

The Commissioner's public health and safety role includes statutory joint consideration of all complaints made about health professionals with the relevant health professions boards.

The Children and Young People Commissioner's role includes consulting with children and young people, and providing advice to government and community organisations about how to improve services for children and young people. While the Commission is managed under a statutory model of collegiate decision making, the Children and Young People Commissioner also assume primary responsibility for many of the Commission's corporate functions such as administration and community education.

The Disability Services Commissioner's roles includes:

- improvements in the provision of services for people with disability and their carers
- the rights of users of services for people with disability and their carers; and
- improving awareness of the rights and responsibilities of users and providers of disability services.

Our Submission

Comparing and measuring the work done by the various statutory office-holders across the ACT is obviously a complex and difficult issue. The roles and functions of each officer has its own complexity and requirements.

Nonetheless, it is arguable that there is a common skill set and work value across all those officers, largely based on their need to lead small agencies, and remain impartial from Government. At times, such officers may also need to hold each other to account in some way. It appears in recent years that a discrepancy has emerged between the salaries of other statutory office holders fulfilling similar work to the Commissioners of the HRC.

In the table below, we provide a comparison of the salaries of like statutory office holders based on Determination 18 of 2011, in which HRC Commissioners were awarded a remuneration of \$156,093.

Public Office Holder	Salary at 1 July 2011 / 1 November 2011	Difference between HRC Commissioners
Director of Public Prosecutions	\$298,239	91%
Auditor-General	\$257,214	65%
Chief Executive Officer, Legal Aid Commission (ACT)	\$190,979	22%
Public Advocate	\$177,661	14%

The Commission recognises that office holders like the Auditor-General and Public Advocate must be viewed as equal or close in seniority to the heads of agencies and senior public sector figures they may need to audit or investigate. Ensuring that the Auditor-General for example has a salary commensurate with Directors-General is obviously important for her role in holding such Directorates to account.

This is also a feature of the work of the HRC Commissioners. In the various jurisdictions of the Commission, the Commissioners may need to handle complaints against, or audit the activities of, senior Government figures including Directors-General, and other statutory office holders like the Public Advocate and Auditor General. In fact, by definition the Directors-General of the Health and Community Services Directorates are likely to routinely be respondents to complaints made to the Commission. The *Discrimination Act 1991* also explicitly states that Members of the Legislative Assembly are employers for the purposes of discrimination complaints to the Commission. In recent years, the Commission has also undertaken systemic reviews and human rights audits of the Psychiatric Services Unit, the Corrections system, the Youth Justice System and the Quamby and Bimberi Youth Detention Centres, which made far-reaching systemic recommendations to Government Directorates and Directors-General.

It is important that the HRC Commissioners are seen as sufficiently independent and senior to hold such individuals to account. It is arguable that the current gap in remuneration, which is publicly released, undermines these functions.

Further, recent determinations have increased this discrepancy in remuneration. In Determination 16 of 2008, the Tribunal increased the remuneration of the Public Advocate based on an independent assessment of work of the duties and responsibilities of the position of Public Advocate. The position was assessed as being broadly comparable with the level of responsibility of an executive 2.4 level within the ACT Public Service. The Tribunal determined that remuneration for the Public Advocate be \$167,872 per annum with effect from 24 July 2009.

Prior to this date, the salaries of the HRC Commissioners and the Public Advocate were largely the same. For example, in Determination 5 of 2009, the Tribunal determined that the HRC Commissioners receive \$147,492, compared to \$157,978 for the Public Advocate (a gap of 7%). We do not dispute the considerable workload of the Public Advocate, but submit that our roles are very comparable.

In summary, like the Public Advocate and Auditor-General, the HRC Commissioners must:

- Act independently;
- Lead a small agency;
- Speak publicly about complex and important issues, usually involving vulnerable members of the community;
- Act to protect the interests of vulnerable members of our community;
- Liaise with a broad section of the community, from an individual complainant through to judicial officers, the Chief Minister and other members of Legislative Assembly;
- At times appear before judicial officers;
- Audit Government agencies for human rights compliance; and
- Provide high level policy and legal advice to Government

The skill set required to deal with such a broad range of stakeholders and clients is almost unique to the work of HRC Commissioners.

We note that agencies like the DPP and Legal Aid may encompass management of larger groups of employees. That may necessitate some gap in remuneration. Nonetheless, we submit that it also requires significant skill to discharge statutory functions with limited resources such as small numbers of staff. HRC Commissioners must discharge personally a range of functions that in a larger organisation would be fulfilled by other staff.

Our submission therefore is that our remuneration be set more commensurate with that of other like statutory office holders, particularly the Public Advocate and Legal Aid Commission, bearing in mind that like those officer holders, the HRC Commissioners must be seen to be sufficiently senior to hold key Government agencies and their representatives to account.

Yours sincerely



Mr Alasdair Roy
Children and Young People
Commissioner



Mary Durkin
Health Services Commissioner
Disability and Community
Services Commissioner



Dr Helen Watchirs OAM
Human Rights and
Discrimination Commissioner

9 March 2012