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Dr Colin Adrian
Chair
ACT Remuneration Tribunal
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Dear Dr Adrian *Colin*

Thank you for inviting me to provide further evidence to inform the determination of the remuneration, allowances and other entitlements of the Public Sector Standards Commissioner following our discussion on 17 October 2018 at the ACT Remuneration Tribunal hearing for the Spring Review of Public Office Holders.

As you are aware, the Public Sector Standards Commissioner holds an important role within the integrity framework within the ACT. The current working arrangements sees the Public Sector Standards Commissioner working half a day per week based on an initial and early assessment of the requirements of the role.

The Government acknowledges that given the work value and profile of this key role and current and future expectations, that there is an increased level of work required of the Public Sector Standards Commissioner and the difficulty in achieving this work within the current working arrangements.

Changes to the current working arrangements will allow the Public Sector Standards Commissioner to personally lead and undertake sensitive and complex investigations or complaints, as initially envisaged by the Government. Upcoming priorities include:

- an audit of the misconduct guidelines and investigation procedures to identify areas for improvements;
- providing staff education and training on the misconduct process and public interest disclosures and supporting senior officials;
- implementing preventative strategies as an alternative to the misconduct process, including mediation, dispute resolution and restorative practices;

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- working with the new Integrity Commissioner to educate public officials about the exposure of corrupt conduct and focussing on efforts to prevent corruption within the ACT Public Sector; and
- participating in any independent and statutory review of the *Public Interest Disclosure Act 2012*.

With the imminent introduction of the new Enterprise Agreements, there are also changes to the role of the Public Sector Standards Commissioner and the misconduct process. Attachment A provides a breakdown of the proposed powers of the Public Sector Standards Commissioner.

The Public Sector Standards Commissioner will undertake the legislative and required functions on a part-time basis, supported by staff within the Professional Standards Unit.

Given the high profile of this role for the ACT Public Sector, the work value of the position and current demand, I would appreciate if the Tribunal would consider an increase in the per annum remuneration. The per annum remuneration may be in the order of a salary of \$153,250 per annum which would acknowledge current demand and the work value of the role based on the existing per annum remuneration.

The Public Sector Standards Commissioner and Professional Standards Unit has provided input into their current and upcoming priorities.

Thank you for the Remuneration Tribunal's consideration of this important matter.

Yours sincerely



Andrew Barr MLA
Chief Minister

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Changes to the role of the Public Sector Standards Commissioner and the misconduct process under the ACTPS Enterprise Agreements

Under the new ACTPS Enterprise Agreements, all misconduct investigations will be conducted by or co-ordinated through the Professional Standards Unit, with oversight by the Public Sector Standards Commissioner (PSSC).

Under the proposed new clauses of the Enterprise Agreement, the PSSC will have a number of powers that are either new or were previously Head of Service (HoS) powers.

The proposed PSSC powers are as follows:

- The PSSC may complete a misconduct process following the resignation of the employee subject to misconduct allegations from the ACTPS, including inviting the employee to participate in the process. The outcome of the process can be taken into account with any application by the former employee to re-enter the ACTPS. **(New power)**
- The PSSC may pause a misconduct process following the resignation of the employee subject to misconduct allegations from the ACTPS, notifying the employee that the process may be reactivated on re-entering, or seeking to re-enter, the ACTPS. Any disciplinary action determined as a result of a resumed misconduct process may be imposed on the employee in their new position or taken into account with any application to re-enter the ACTPS. **(New power)**
- The PSSC will accept a referral for investigation and appoint an appropriately trained or experienced person to be the investigating officer or may decide that an investigation will not resolve the matter and refer it back to the Head of Service for further consideration. **(Partly previous HoS power, partly new power)**
- The PSSC can instigate an investigation of alleged misconduct in the absence of a referral, if the matter warrants investigation. **(New power)**
- After considering the investigation report, the PSSC (or their delegate) will make a preliminary determination as to whether misconduct has occurred or not. **(Previous HoS power split into 2 steps)**
- After considering any response from the employee, the PSSC (or their delegate) will make a final determination as to whether misconduct has occurred or not.

The following matters will remain HoS powers:

- referral of allegations of misconduct for investigation;
- suspension, transfer, reassignment;
- determining an appropriate sanction, both proposed and final, if misconduct is found to have occurred or where an employee makes full admissions of misconduct; and
- summary dismissal.