



Andrew Barr MLA

Chief Minister

Treasurer

Minister for Social Inclusion and Equality

Minister for Tourism and Special Events

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Member for Kurrajong

Dr Colin Adrian
Chair
ACT Remuneration Tribunal
PO Box 964
CIVIC SQUARE ACT 2608
Email: remtrib@act.gov.au

Dear Dr Adrian ^{Colin}

I am writing to you about the remuneration, allowances and other entitlements of the Public Sector Standards Commissioner.

As you may be aware, Mr Ian McPhee AO PSM was appointed as the Public Sector Standards Commissioner and commenced on 29 January 2018. This is a part-time statutory appointment which is independent of the ACT Public Sector.

In 2017, the Remuneration Tribunal set the remuneration for the Public Sector Standards Commissioner. The current remuneration is \$66,625 per annum as outlined in the Tribunal's Determination 6 of 2018.

The Public Sector Standards Commissioner supports the maintenance of high standards of conduct by ACT public sector officials through the oversight of the misconduct processes under the Enterprise Agreements or the Public Sector Management Act 1994. In addition, under the Public Interest Disclosure Act 2012, the Public Sector Standards Commissioner has an important role in providing advice, monitoring public interest disclosures, reviewing investigations, and co-ordinating education and training programs. The office of the Public Sector Standards Commissioner is supported by the Professional Standards Unit.

Based on the existing remuneration, the Public Sector Standards Commissioner is working half a day each week. At the beginning of 2018, this arrangement was initially considered appropriate as Mr McPhee was settling into the new position. Since the commencement of the appointment, the expectations and workload of the role has been clarified. As a result of the current and future workload, it is expected that the Public Sector Standards Commissioner will be required to work additional hours than the existing arrangements provide.

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The work requirements of the Public Sector Standards Commissioner can be different and varied each week depending on the number and complexity of investigations or complaints which are being considered. There may also be occasions where the Public Sector Standards Commissioner may be required to lead and personally undertake sensitive, extraordinary or complex investigations or complaints against significant and high profile investigations involving senior officials or statutory office holders.

It was initially intended that the Public Sector Standards Commissioner would undertake an independent audit of existing misconduct guidelines and investigation procedures and provide recommendations for improvements to ensure that these processes are being undertaken as effectively and efficiently as possible. Given the current working arrangements and other investigative priorities, it has not been possible to undertake this audit.

In addition, following the appointment of the new Public Sector Standards Commissioner and the increased focus on integrity and governance across the ACT Public Sector, a number of directorates and agencies are also seeking opportunities for Mr McPhee to provide education and training programs on the misconduct process and public interest disclosures.

I understand that the Public Sector Standards Commissioner and his office are planning to increase the focus on preventative steps that can be taken to moderate or contain the number of matters that result in misconduct referrals. This also includes working with directorates and agencies on implementing multi-faceted strategies as an alternative to the misconduct process, including the use of mediation, dispute resolution and restorative practices.

The Remuneration Tribunal may be aware that the Government has tabled an Exposure Draft Integrity Commission Bill 2018 into the Legislative Assembly. The Exposure Draft is currently being considered by a Select Committee. I will separately write to the Remuneration Tribunal about the proposed statutory appointments in this Exposure Draft.

It is proposed that the Integrity Commissioner will have a prevention role to educate public officials about the exposure of corrupt conduct with a focus on preventing corruption within the ACT public administration. The Integrity Commissioner and the Public Sector Standards Commissioner will need to work together on educating public sector entities on integrity matters and public interest disclosures.

There may also be a review of the Public Interest Disclosure Act 2012, as recommended by the Select Committee on an Independent Integrity Commission 2017. This has been supported by the Government and there has been recent discussions in the Legislative Assembly about the need for such a review. While the Government is considering the timing and scope of this review, it is useful to note that the Public Sector Standards Commissioner may also have a role as part of this review.

It is the Government's intention to establish the working arrangements for the Public Sector Standards Commissioner to recognise the current and future work requirements of the role. It is expected that these working hours will increase to approximately two days per week, with the possibility of additional hours, as required.

It is noted that the Remuneration Tribunal has established remuneration for the Inspector of Correctional Services at \$836 per diem, but the total remuneration for this role cannot exceed \$192,372 per annum. This arrangement acknowledges the varied role and expectations of the

Inspector of Correctional Services. This approach is based on the remuneration determined for the Acting Supreme Court Judge and Special Magistrates.

While the Government is still of the view that the Public Sector Standards Commissioner is not a full-time role, there is a need to increase the number of part-time hours beyond the existing arrangements. I would like to request the Remuneration Tribunal consider remuneration and associated arrangements for the Public Sector Standards Commissioner similar to the 'per diem' arrangements for Inspector of Correctional Services. This arrangement would provide an appropriate level the flexibility subject to the work requirements and require additional hours to be worked and appropriately remunerated, in certain circumstances. The Remuneration Tribunal has previously provided this level of flexibility in determining the remuneration for the then part-time Commissioner for Public Administration (see Remuneration Tribunal Statement 152 and 164).

The Public Sector Standards Commissioner and I would be happy to discuss this further with the Remuneration Tribunal.

I would like to thank the Remuneration Tribunal for considering this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Andrew Barr".

Andrew Barr MLA
Chief Minister

18 SEP 2018

