



8 September 2016

Ms Anne Cahill Lambert AM
Chair
ACT Remuneration Tribunal
PO Box 964
CIVIC SQUARE ACT 2608

Sent by email: remtrib@act.gov.au

Dear Ms Cahill Lambert

Annual review of ACAT member remuneration

Thank you for your letter requesting submissions for the annual review of remuneration, allowances and other entitlements for members of the ACT Civil and Administrative Tribunal.

President

I note the submission of the Justice and Community Safety Directorate (the Directorate) dated 31 August 2016 advising you of amendments to the ACT Civil and Administrative Tribunal Act 2008 (the ACAT Act) that result in the creation of a position of President as the head of jurisdiction, combining the previous positions of General President and Appeal President. The amendments also require that the President be either a magistrate or be eligible for appointment as a magistrate.

These amendments commenced on 29 June 2016 and included a transitional provision to the effect that the person appointed as general president is taken to be appointed as president on the same conditions that applied to their appointment as general president. My understanding of the operation of the amendments is that the determination of remuneration and entitlements that you are now considering will deal with the positions of President, full-time presidential member, half-time presidential member, acting presidential member, full-time senior member, senior member and ordinary member.

While the statutory functions of the President are the same as those of the former positions of General and Appeal President, further amendments to the ACAT Act increase its jurisdiction for civil dispute applications from \$10,000 to \$25,000. The amendments commence on 15 December 2016. From that date, civil dispute applications seeking payment of an amount up to and including \$25,000 or orders in relation to goods and services valued up to that amount, may only be commenced in ACAT. Matters commenced but not yet progressed to hearing in the Magistrates Court may be transferred to the ACAT by order of the Magistrates Court. As



a result of these amendments the ACAT anticipates an increase in work load and an increase in the complexity and length of civil dispute matters.

In Determination 4 of 2013 the Remuneration Tribunal decided to “remunerate Presidential Members at salary parity with Magistrates from 1 November 2013”. That decision was confirmed and continued in the 2014 Determination. While not identified as a specific decision, in practice it was departed from in the 2015 Determination.

The Directorate indicates support for remunerating the head of ACAT at parity with Magistrates. I too support that position, particularly in light of the changed requirements for appointment of the President and the changes to the ACAT’s jurisdiction referred to above.

I have discussed this with the Chief Magistrate who indicates that she also supports parity of remuneration. She gave me permission to let you know her views.

Fulltime and part-time presidential members

I note that the current determination sets rates of remuneration for the fulltime and part-time presidential members as a numerical figure, which appears to be derived as a percentage of the remuneration paid to the President. I support the continuation of this approach in future determinations.

Fulltime senior member

The rate of remuneration of the new position of fulltime senior member was set at a rate equivalent to an executive 1.2, however such executives have received an increase in remuneration this year. Given the evolving case management and administrative responsibilities of the fulltime senior member position this rate may warrant further examination in the future. However, at this time I would suggest that the remuneration be brought back into line with the executive 1.2 that was initially determined.

Sessional Senior Members and Ordinary Members

The salary paid to sessional senior and ordinary members has not changed for a few years. A recent review of payments made to members by other tribunals indicates that these rates, particularly the rate for ordinary members, have fallen behind rates for comparable work in other jurisdictions. There is some complexity about the comparisons of course, because of the diversity of work undertaken in tribunals. Nevertheless, I am strongly of the view that these rates require adjustment. I am not in a position to suggest specific figures to you at this stage but note that a salary in the range of \$520 to \$550 per diem for ordinary members and something in the range of \$960 to \$970 per diem for senior members may be more appropriate than the current rates of \$440 and \$945 respectively.

I also wish to propose consideration of a separate fee for sessional members attending professional development training at the request of the President, or participating on a committee or other working group similar to the Professional Services Fee payable for NSW Civil and Administrative Tribunal sessional members which I understand is currently set at \$503 per diem.

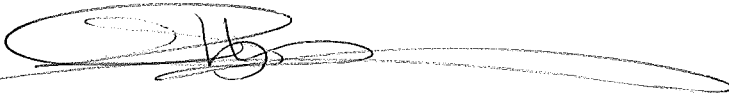
I appreciate that these are significant changes and that individual members affected by any changes, the in-coming President and the Directorate may also have views that they wish to have taken into account. The task of consulting all sessional members is a significant one. The in-coming President takes up the position at the beginning of 2017. In those circumstances



you may wish to consider a basic increase to salary for these positions now pending a more detailed review either on an ad hoc basis or during your Autumn 2017 review sittings.

I would welcome an opportunity to discuss my submission with you further at a hearing.

Yours sincerely



Linda Crebbin
President
ACT Civil and Administrative Tribunal