



Sandra Lambert AM  
Chair  
ACT Remuneration Tribunal  
PO Box 964  
CIVIC SQUARE ACT 2608  
[remtrib@act.gov.au](mailto:remtrib@act.gov.au)

Dear Ms Lambert

### **ACT Remuneration Tribunal 2019 Spring Review**

Thank you for your letter dated 23 August 2019 inviting a submission in relation to the annual review of the remuneration and allowances to be paid, and other entitlements to be granted, to Members of the ACT Civil and Administrative Tribunal (ACAT).

This submission notes the range of new and complex work being undertaken by the ACAT, and recommends a review of the amount and relativity of remuneration of the President and full-time Presidential Members and full-time Senior Members.

#### ***New and complex work***

The ACAT has experienced a period of growth in the size and complexity of its jurisdiction.

The ACAT has the broadest jurisdiction of civil and administrative tribunals nationally, as shown in the table at [Attachment A](#).

The jurisdiction of the ACAT continues to expand with the enactment of legislation conferring new powers and functions on it, as well as amendments to existing legislation.

In 2018-19 a range of existing legislation was amended, or will be amended in the coming period, to broaden and deepen the ACAT's role and powers. In particular, changes to the *Residential Tenancies Act 1997*, *Retirement Villages Act 2012* and the *Unit Titles (Management) Act 2011* have required a considerable amount of implementation work be undertaken within the ACAT.

From 1 February 2020, the ACAT will hear motor accident injuries disputes under the *Motor Accident Injuries Act 2019*. The Act is long, complex and controversial. It introduces in the ACT a 'no fault' scheme in relation to injuries and death resulting from motor vehicle accidents. An injured person can apply to the relevant MAI insurer for defined benefit payments for treatment and care, income replacement and quality of life benefits. A dependant or representative of a person who dies can apply for death or funeral expenses benefits.

Under that Act, the ACAT:

- is authorised to review certain decisions by insurers about defined benefits;
- is responsible to make orders about the distribution of death benefits;
- in some matters makes the final determination if the insurer and the applicant cannot agree;
- is also the external review body for decisions by the Motor Accident Injuries Commission, which will regulate the new scheme and insurers.

This new jurisdiction is expected to bring to ACAT around 1,600 new applications per annum and add a new level of complexity to the ACAT's business. Significant implementation activities are underway to accommodate this new jurisdiction.

A list of legislative amendments which have affected the ACAT's jurisdiction throughout 2018-19 is Attachment B.

As a consequence of the expanded jurisdiction and increased volume of work, a recruitment process is underway to expand the membership of the ACAT.

***Amount and relativity of remuneration of President and full-time Presidential and Senior Members***

The expanded jurisdiction conferred on the ACAT by legislation reflects the confidence of the legislature in the ACAT to decide complex and important cases. That confidence is also reflected in the appointment this year of two ACAT members as Special Magistrates in addition to their ACAT roles.

The community's confidence in the ACAT is reflected when civil dispute proceedings commenced in ACAT are capped at the \$25,000 jurisdictional limit when the amount in dispute is substantially in excess of that sum.

The expanded jurisdiction and increased size of the ACAT membership adds to the responsibilities exercised by the President and Presidential Members.

As noted earlier, the ACAT has the broadest jurisdiction of civil and administrative tribunals nationally.

A comparison of remuneration for members of civil and administrative tribunals nationally is Attachment C. As that table demonstrates, the amount of remuneration for the President and full-time Presidential Members and full-time Senior Members of the ACAT is substantially less than for people holding comparable positions in similar tribunals elsewhere in Australia.

I recommend that the Remuneration Tribunal consider increasing the remuneration of the President and the increasing the relativity between the remuneration of the President and full-time Presidential Members and full-time Senior Members to reflect the level of responsibility exercised by those Members in presiding over more complex matters and administering aspects of the ACAT's work.

On this basis I seek your consideration of increasing the:

- (a) the remuneration of the President to a level closer to that of the Chief Magistrate; and
- (b) the remuneration of the full-time Presidential Members relative to the President's remuneration from the current 75% to some significantly higher proportion, with an appropriate increase also for the full-time Senior Members.

In the alternative, I recommend an increase to all remuneration in line with the Consumer Price Index (CPI) or such other increase as the Remuneration Tribunal determines for other public office holders.

I would welcome an opportunity to discuss any aspect of this submission with you further at a hearing.

Yours sincerely



Graeme Neate AM  
President

18 September 2019



Comparison – Jurisdiction of Civil and Administrative Tribunals Nationally

	ACAT Y - \$25k	NCAT Y - \$40K	QCAT Y - \$25k P - After Building & Construction Commission process	NTCAT Y - \$25K	WA SAT	SACAT	VCAT P - Goods & Services
Civil Disputes <sup>A</sup>	Y	Y	Y	Y	Y	Y	Y
Building & Construction	Y	Y	Y	Y	Y	Y	Y
Common Boundaries	Y	Y	Y	Y	Y	Y	Y
Discrimination	Y	Y	Y	Y	Y	Y	Y
Energy & Water	Y	Y	Y	Y	Y	Y	Y
Guardianship & Administration	Y	Y	Y	Y	Y	Y	Y
Internal Appeals	Y	Y - some cases only appealable to Supreme Court	Y - judicial members decisions to Court of Appeal	Y - Reviews decisions of its 'original' jurisdiction	Y	Y - Review of Gov Decisions appeals to Supreme Court	Y
Motor Accident Injuries <sup>†</sup>	Y	Y	Y	Y	Y	Y	Y
Mental Health	Y	Y	Y	Y	Y	Y	Y
Occupational Discipline*	Y	Y	Y	Y	Y	Y	Y
Occupational Licensing*	Y	Y	Y	Y	Y	Y	Y
Retirement Villages	Y	Y	Y	Y	Y	Y	Y
Retail Leases	Y	Y	Y	Y	Y	Y	Y
Review Administrative Decisions*	Y	Y	Y	Y	Y	Y	Y
Tenancy Disputes	Y	Y	Y	Y	Y	Y	Y
Unit Titles	Y	Y	Y	Y	Y	Y	Y

<sup>A</sup>Civil dispute jurisdiction varies but can include consumer disputes, damages, debt applications, motor vehicles etc

\*The types of decisions that Tribunals can review vary in each jurisdiction.

<sup>†</sup>Tasmania does not have a centralised Tribunal (ie. separate Mental Health, Guardianship and Discrimination Tribunal).

+ Commences from 1 February 2020

P: Partial jurisdiction (highlighted in Orange).

N: Do not consider these matters (highlighted in Red).

Y: Consider these matters (highlighted in Green).

~ Unknown

**ACT Civil and Administrative Tribunal  
Input into legislative amendments 2018-19**

During 2018-19, the ACAT reviewed a number of legislative amendments to determine impacts on ACAT practice and procedure. Significant legislative changes were proposed to the following:

- *Animal Welfare Act 1992*
- *Birth, Deaths and Marriages Registration Act 1997*
- *Controlled Sports Act 2019*
- *Government Procurement Act 2001*
- *Integrity Commission Act 2018*
- *Motor Accident Injuries Act 2019*
- *Residential Tenancies Act 1997*
- *Retirement Villages Act 2012*
- *Unit Titles (Management) Act 2011*
- *Veterinary Practice Act 2018*
- *Victims of Crime Act 1994*

Of these, significant implementation activities were required to accommodate:

- *Motor Accident Injuries Act 2019*
- *Residential Tenancies Act 1997*
- *Retirement Villages Act 2012*
- *Unit Titles (Management) Act 2011*

Attachment C

National Member Remuneration

ACAT Title	ACAT	VCAT	NCAT	QCAT	SACAT	NTCAT	WA - SAT
President (Head of Jurisdiction)	\$362,484	\$458,840 (Supreme Court Judge) from 21/9/18	\$475,920 (Supreme Court Judge) from 1/7/19	\$441,010 (Supreme Court Judge)	\$458,840 (Supreme Court Judge) *from 1 Jan 19	\$368,940 (Local Court, Deputy Chief Judge)	\$441,057 (Supreme Court Judge)
Full Time Presidential Member	\$271,863	\$362,503 (Deputy President)	\$317,777 (Deputy President – Magistrate) Note: Some NCAT Deputy Presidents are Acting District Court Judges – a District Court Judge receives \$405,710				\$396,951 (Deputy President – District Court Judge)
Part-time Presidential Member	\$181,242	n/a	\$1,367 per day (Deputy President)			n/a	
Full Time Senior Member	\$184,627	\$289,964	\$239,876	\$236,407		n/a	\$327,486
Full Time Ordinary Member	N/A	\$253,980	\$206,722	\$192,104		\$237,574 – \$254,729	\$245,615
Sessional Senior Member	\$1100 per diem	\$1235 per day	\$640 – Senior Member* \$955 – Senior Member \$982 – Principal Member (as of 2 April 2019)		N/A	\$719	
Sessional Senior Member (presiding)	\$1210 per diem (ie. per diem plus 10%)	N/A	N/A		N/A	\$959	
Sessional Ordinary Member	\$510 per diem	\$1078 per day	\$640 daily (as of 2 April 2019)	\$543 (4hrs or more)	\$277.29 per 4hr (then p/h for each hr over 4)	\$509 – \$1209 depending on jurisdiction and matter	
Sessional Ordinary Member (presiding)	\$561 per diem (ie. per diem plus 10%)	\$1193 per day	\$828 daily (as of 2 April 2019)	\$759 (4hrs or more)	\$362.60 per 4hr (then p/h for each hr over 4)		

\*Non-presiding "member with a professional qualification"

National Member Remuneration

ACAT Title	ACAT	VCAT	NCAT	QCAT	SACAT	NTCAT	WA - SAT
Other Noteworthy items					Ordinary Member appointed as Psychiatrist paid \$229.07 p/hr		
Professional Development		Paid either half/full day rate.	\$534.00 professional development fee		\$68.32 per hour for professional development		
Decision Writing		Paid – at the discretion of the responsible Deputy President			\$69.32 p/h for preparing written reasons, up to a maximum of two hours (in prescribed circumstances only)	Paid - \$73-\$173 p/h - Max daily rate.	

\*Non-presiding member with a professional qualification