



**ACT**  
Government

Justice and Community Safety

ACT Remuneration Tribunal  
PO Box 964  
Civic Square ACT 2608

Dear Ms Cahill Lambert

### **Follow up from meeting about rights protection services determination**

As you would be aware, when the Remuneration Tribunal met with officers from Justice and Community Safety Directorate on 7 January 2016, the Tribunal asked for the following:

- A clear statement of why the roles in the Human Rights Commission (HRC) have changed and the levels and responsibilities of the new roles;
- An explanation of why, at a time when human rights are increasing in importance, the government is seeking to reduce pay levels of commissioners; and
- An explanation of the Mercer work assessment system.

The further submission at [Attachment A](#) provides detail in response to the questions raised.

The changes in the roles in the HRC involve the creation of a President to take on the strategic functions of the Commission and hold the government to account. This frees the Commissioners to focus more on the community and service delivery.

The level sought by the Government for the President reflects the position's strategic role and overall responsibility for the Commission, as well as a level appropriate to deal with all levels of the Government. While individual commissioners will likely be subject matter experts, the president will be responsible for delivering a cohesive, unified and agile HRC and have responsibility for the overall governance and finances of the Commission.

The President will be able to exercise the functions of each commissioner.

As subject matter experts, each Commissioner will be responsible for their "area" within the Commission, under the broad oversight of the President.

The amendments that are expected to commence on 1 April recognise the increasing financial pressure placed on independent statutory organisations to live within budget while providing more services to the community.

The new structure is designed to remove statutory constraints to re-organising the business of human rights protection to provide better front line services. Recognising that the efficiencies already made within the current structure have been significant there is limited scope for efficiencies within the current diverse structure.

No funding is being removed from the HRC as a result of the restructure. Instead, the President will provide better strategic direction while the commissioners focus on the community and service delivery.

Individual Commissioners will no longer have to devote a portion of their time to manage their own portion of the budget or solely manage staffing issues as the President will have responsibility for managing the administration, finances and governance of the Commission. For example, the Annual Report notes that the Children and Young People Commissioner is responsible for the management and oversight of all of the Commission's corporate and administrative functions, which are estimated to currently account for 30% of his workload. The President will have responsibility for strategies to deal with competing workload priorities and shifting demand.

Broad systemic and strategic advocacy, education and community engagement work currently undertaken by commissioners individually will be performed by the President.

The pay levels sought recognise the new structure and the renewed focus on service delivery. They do not reflect a decrease in the value of the Human Rights Commission, but rather a structure that will deliver the desired outcomes more effectively.

I note that when you met with officers from JACS on 7 January 2016 you also asked why remuneration for the Domestic Violence Coordinator (DV Coordinator) should not be increased given the importance and profile of domestic and family violence.

I confirm the advice provided, that the increase in profile of domestic and family violence has led to the Government appointing a Coordinator-General for Domestic and Family Violence, Ms Vicki Parker, Deputy Director General, JACS.

Ms Parker provides high level oversight and coordination of the ACT Government responses to family and domestic violence across directorates. She has established a high level cross government advisory group that meets regularly and reports to Minister to ensure reform continues and responses are consistent, evidence based and coordinated.

Given Ms Parker's appointment, the scope of the role of the DV Coordinator is not clear at this time. Initial discussion has taken place in relation to that scope, but at this time the scope has not been finally determined. The Government will advise the Tribunal of any decision.

I also seek your agreement to make a determination in February 2016. As the new structure for the Commission is to commence on 1 April 2016, recruitment action is already underway. All of the current positions will cease as at 31 March 2016 and current Commissioners are competing in an open merit based process. To allow a Cabinet process to take place and appointments to be announced before 1 April, appointments need to be confirmed by the end of February 2016. Potential applicants are unlikely to be prepared to commit to a job offered if remuneration is not clear. Your assistance in this regard would be greatly appreciated.

Please contact Ms Julie Field on 620 70522 if you require further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'V Parker', with a horizontal line underneath.

Vicki Parker  
Deputy Director-General, Justice  
Justice and Community Safety Directorate  
9 February 2016





**ACT**  
Government

Justice and Community Safety

**UNCLASSIFIED**

**Sensitive**

**FURTHER SUBMISSION TO THE ACT REMUNERATION TRIBUNAL  
HUMAN RIGHTS COMMISSION MEMBERS AND VICTIMS OF CRIME COMMISSIONER  
REMUNERATION**

**New structure**

On 19 November 2015 the Attorney-General introduced the *Protection of Rights Services (Legislation) Amendment Bill 2015* (the 'Bill') (Attachment A) into the Legislative Assembly. This Bill restructures the Human Rights Commission, establishing the position of President, and bringing the Victims of Crime Commissioner and the advocacy functions of the Public Advocate into the Commission.

The Bill will come into effect on 1 April 2016, and the Government has asked that the new arrangements and leadership team be in place to deliver services under the new protection of rights framework from this time. This includes a Remuneration Determination in respect of the new positions that comprise the leadership team for the Protection of Rights framework.

**Rationale for the new structure**

The purpose of the review of statutory rights protection offices has been to identify improvements that could be made to deliver:

- a more cohesive, unified and agile Human Rights Commission;
- improved accountability and governance of rights protection services;
- more efficient and effective service delivery; and
- improved community interaction and public experience.

The new structure will reorient the Commission to core service delivery and will position the Commission to be able to deliver a more strategic, coherent and unified face as a key rights protection agency, rather than an administrative unit supporting the statutory functions of specific commissioners.

Establishing the position of President and legislating for key strategic and governance functions, which will be the responsibility of the President, will improve the high-level and strategic approach to the oversight of work performed by the Commission, with cross Commission work being undertaken where necessary to deliver co-ordinated legislative reform or systemic change.

The changes seek to support the important work that the Human Rights Commission does, and the relationships that the Commissioners have developed with stakeholders and clients – while at the same time implementing ways in which the resources of the agencies can be better administered, allocated and utilised.

**Sensitive**

**UNCLASSIFIED**

**UNCLASSIFIED**

**Sensitive**

These changes are necessary to future proof the agencies' ability to deliver their functions in a tight budgetary environment and to develop more productive relationships with other public service delivery agencies and community advocacy sector.

**Request for determinations**

As noted in correspondence to Ms Cahill Lambert on 21 December 2015, the Justice and Community Safety Directorate is seeking new remuneration determinations for the following statutory positions created in the Bill:

- a. President and Human Rights Commissioner;
- b. Discrimination, Health Services and Disability and Community Services Commissioner;
- c. Public Advocate (advocacy functions only) and Children and Young People Commissioner;  
and
- d. Victims of Crime Commissioner.

Recruitment was commenced on 18 December 2015 following calls for expressions of interest for all positions in a range of national and local media. The application period closed on 15 January 2016 and the selection process is due to be finalised in mid February 2016.

The Public Trustee is also appointed to the Public Advocate position.

The appointments for the Public Advocate, Human Rights and Discrimination Commissioner and the Children and Young People Commissioner will expire on 31 March 2016. The Attorney General has advised these Commissioners that their appointments will not be renewed, pending the outcome of the recruitment process.

Appointments of Health Services and Disability and Community Services Commissioner and the Victims of Crime Commissioner will also be ended on 31 March 2016, with those Commissioners being entitled to special benefits in accordance with the *Public Sector Management Standards 2006*.

Recruitment includes the new executive role of Public Trustee and Guardian (a public servant).

**Responsibilities, functions of members and remuneration**

In December 2015, the ACT Justice and Community Safety Directorate provided a Mercer Consulting Australia Pty Ltd ('Mercer') report which contained indicative classifications for the reconfigured positions.

At an initial meeting with the Remuneration Tribunal on 7 January 2016, Members sought further details to explain and support the work value change of the Commissioners under the new structure including how reduced remuneration determinations would affect the operation of the Human Rights Commission in its new Protection of Rights configuration.

This submission provides additional detail about the context for the new structure and the functions and responsibilities of each Commissioner. It includes a more detailed description of the Mercer work value assessments.

UNCLASSIFIED

Sensitive

### **Changes to roles that impact on work value**

There are significant differences in the roles of all Commissioners under the new structure.

Commissioners' current remuneration at Executive Level 2.4 is predicated on them fulfilling responsibilities in relation to strategic oversight and high level accountabilities in their individual practice areas. From 1 April 2016 the President will assume overall leadership for strategic planning, governance and accountability as well as the capacity to exercise the functions of all Commissioners. The President will be the public face of the Commission and, if the Remuneration Tribunal agrees, will be remunerated at a level that recognises the high level strategic oversight and system advocacy responsibilities which the President must exercise in dealing with government and the community under the new structure.

The structure elevates the President to the position of seniority in the Commission – the President will be responsible for formal liaison and interactions with Government, including responsibility for policy advocacy and delivering systemic or high-level reports. The Bill reflects this by providing that it is the President, not Commissioners separately, who will uphold the independence and impartiality of the Commission from government.

In their new roles, Commissioners will continue to provide specialised expertise with a re-orientation towards integrated service delivery capable of cross-Commission action and a focus on community priorities rather working as separate entities.

JACS therefore suggests that the President should be remunerated at Executive Level 2.5. If agreed, then JACS also requests that all the other Commissioners should be remunerated at Executive Level 1.3.

### **Previous Determination 14 of 2012**

Current Commissioners are remunerated at the Executive Level 2.4 as set out in Determination 14 of 2012. The principle reason for determining this level at the time was that, like the Auditor General and Public Advocate, Human Rights Commissioners may need to handle complaints against, or audit the activities of, senior Government figures including Directors-General. There was also a need to support systemic reviews and human rights audits under the auspices of the Human Rights framework.

These functions will no longer be vested in individual Commissioners from 1 April 2016. The Bill provides that the President will assume responsibility for delivering systemic reports for the Commission, including reviews, audits and reports to the Minister.

### **Comparative work value assessments – Mercer**

Section 626 of the Public Sector Management Standards requires the Head of Service to approve a methodology for working out the value of an executive employee office. For executive positions in the ACT, Mercer is the approved independent job evaluation provider.

Consistent with section 626, the Mercer method was applied to the Statutory Officer Holders in the Human Rights Commission in 2012 at the Commissioners' initiative. This work value assessment formed part of the considerations for Determination 4/2012 that set Commissioners' remuneration at Executive Level 2.4.

Sensitive  
UNCLASSIFIED

**UNCLASSIFIED**

**Sensitive**

Noting the significant differences in the new roles, JACS sought an updated Mercer work value assessment to assist in determining an appropriate remuneration level for each of the roles in the new Protection of Rights leadership team.

All Commissioners will be appointed for fixed terms. Mercer recommendations are:

- a. President and Human Rights Commissioner – Executive Level 2.5
- b. Discrimination, Health Services and Disability and Community Services Commissioner – Executive Level 1.3
- c. Public Advocate and Children and Young People Commissioner – Executive Level 1.3
- d. Victims of Crime Commissioner – Executive Level 1.3.

Noting that Mercer also conducted the work value assessment in support of Determination 14/2012, an explanation of the differences in the work values from 2012 to those recommended now is below.

**Comparison of functions and responsibilities (2012 v 2015) – President / Commissioners**

- act independently – the new Protection of Rights structure maintains the independence of each Commissioner, but the President is accountable for developing the governance of the Commission and for maintaining independence while meeting Government expectations about performance in service delivery, coordination and consultation as well as strategic management of the Commission's work plan.
- lead a small agency – under the new structure the President leads the HRC having power to perform all functions vested in other commissioners. The President is responsible for allocating resources, managing the administration of the agency, settling the governance and corporate support plan, determining internal operations, managing conflicts and providing advice and reports to the Government. The agency is likely to increase in size with the amalgamation of the advocacy unit of the Public Advocate and the Victims of Crime Commissioner joining the Commission, thereby further increasing the scope, functions and accountability of the President's role.
- speak publicly about complex and important issues, usually involving vulnerable members of the community - while all commissioners will be public figures under the new structure, the President will be charged with the general promotion of the Commission, education about the Commission's functions and the operation of the Human Rights Commission Act along with related rights protection acts. The President will provide profile for the Commission.
- act to protect the interests of vulnerable members of our community – all commissioners will be responsible for protecting vulnerable members of the community through specific oversight and advocacy functions. Under the new structure these functions will be rearranged to align like functions, such as moving complaints functions under the purview of one appointed Commissioner – the Discrimination, Health Services and Disability and Community Services Commissioner. The advocacy functions of the Public Advocate will sit

**Sensitive**

**UNCLASSIFIED**

## UNCLASSIFIED

### Sensitive

with functions for children and young people given the significant overlap of those functions, and to remove existing misunderstandings about the scope and responsibilities of each agency when they operated separately. Vesting more administrative and strategic governance functions with the President will allow individual commissioners to focus on specific service delivery functions.

- 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 – The Commissioners will continue to liaise with a broad section of the community, but President will provide the Commission with a more consistent, coherent public profile and work plans.
- at times appear before judicial officers – A number of commissioners can appear before judicial officers (Human Rights Commissioner; Public Advocate; Victims of Crime Commissioner). This remains an important oversight and advocacy function, which is not changed by the new structure, as Commissioners will be the subject matter experts.
- audit Government agencies for human rights compliance – The President will also be the Human Rights Commissioner with responsibility for conducting human rights compliance audits and advising Government on human rights issues. This creates a much bigger dual role which makes the President generally responsible for coordination and delivery of reports that can be produced by the Commission under its various reporting powers. This means the President is responsible for planning for, facilitating and delivering key reviews and audit work and for conducting systemic advocacy work. Under the new structure, the Commissioners will conduct day to day advocacy and oversight work, and support the President by identifying and referring issues requiring more involved or systemic responses.
- Provide high level policy and legal advice to Government - The President is responsible for advising the Minister about the operation of the *Human Rights Commission Act* and related acts, but will rely on the subject matter expertise of individual commissioners to provide high-level advice to government. The Commissioners will have a general function of identifying, inquiring into and reviewing issues that may be complained about under the *Human Rights Commission Act* and related acts - the President then provides reports made under the Acts to Government. It is intended that Commissioners will work collaboratively with the President to develop reports making recommendations about legislative reform or other actions, with the President having overall responsibility for reporting to Government and addressing systemic issues in-the-whole.

### **Mercer work value assessment - President**

Mercer's recommendation for remuneration for the President and Human Rights Commissioner at the Executive Level 2.5 is based on the requirement for the President to lead within a specialised discipline with advanced managerial capabilities, to have the power to plan and manage total organisational resources, as well as overall responsibility for corporate strategies and the highest level accountability for service delivery in response to emerging as well as current needs. The advent of these higher level functions makes the President's role the most complex and they are

### Sensitive

UNCLASSIFIED

## UNCLASSIFIED

### Sensitive

main difference between the 2012 Determination and the new strategic and systemic outcomes that the President will be required to deliver.

JACS suggests that it is very important that the remuneration structure also recognises the scope and authority intended for the new President to ensure the smooth and accountable running of the Human Rights Commission overall. JACS supports the Mercer recommendation for Executive Level 2.5.

#### **Mercer work value assessment - Commissioners**

The Mercer recommendation for Commissioners is to re-align their remuneration level with the re-configured roles and in a way that recognises the difference between their former and new roles once the President assumes a portion of the complexity previously remunerated at the individual Commissioner level. A document outlining the Mercer coding system is at [Attachment B](#).

The core attributes and deliverables needed for revised roles include: the need to understand and apply established disciplines in a human rights context, to manage and deliver integrated services, and to be accountable for service provision within a single business area.

Overall, each Commissioner will retain specific statutory obligations vested in them under the Human Rights Commission Act and other related Act. The Bill does not change these – the reforms it puts in place are intended to remove legislative and structural barriers to joining-up service delivery where this improves outcomes for the ACT community. In a Budget constrained environment, JACS suggests that there needs to be a better balance between the current investment in the individual offices and work of individual Commissioners, and the potential for a more cohesive, strategic and unified approach delivered through the new structure with its renewed focus on service delivery.

This is supported by the Mercer assessment which recognises that as part of the reforms Commissioners themselves will no longer be the public face of the Commission or report directly to Government. In addition, JACS' view is that the structure agreed by Government and set out in the Bill would be undermined by retaining a flat remuneration level for all Commissioners. JACS supports the recommendation for remuneration at Executive Level 1.3.

#### **Redressing inequity between Commissioners**

Under Determination 4/ 2012, the Human Rights and Discrimination Commissioner, the Health Services and Disability and Community Services Commissioner and the Children and Young People Commissioner are remunerated at Executive Level 2.4. Under the same Determination, the Victims of Crime Commissioner is remunerated at Executive Level 1.1.

This is an anomaly and JACS requests that the Remuneration Tribunal consider redressing it by elevating the remuneration for this Commissioner to Executive Level 1.3 to align it with the other Commissioners comprising the Protection of Rights framework. Mercer recommends this level.

Grounds for the increase are that the Victims of Commissioner will continue to provide individual assistance and advocacy for victims of crime under the new structure. However, as part of the increasing focus on domestic violence across the human rights sector, the Bill augments the Victims of Crime Commissioner's jurisdiction by adding responsibility as the Domestic Violence Project Coordinator to the functions of this role.

Sensitive  
UNCLASSIFIED

**UNCLASSIFIED**

**Sensitive**

This is a policy and program shift with the intention of allowing the Victims of Commissioner to work with the President under the new structure to develop a coordinated, jurisdiction-wide response to domestic violence issues, and to improve the development and delivery of services for victims.

**Remuneration Tribunal Determination**

Overall, JACS submits that the new Protection of Rights structure will add gravitas and influence to the Commission as a whole. Remunerating the President at a higher strategic and leadership level will enable implementation of the next phase of reforms, and facilitate the contribution of individual Commissioners by allowing them to respond with greater focus to community –based service issues.

JACS requests Remuneration Tribunal consideration to determine the remuneration for the new Protection of Rights positions to take effect in support of the new leadership team from 1 April 2016, as follows:

- a. President and Human Rights Commissioner – Executive Level 2.5
- b. Discrimination, Health Services and Disability and Community Services Commissioner – Executive Level 1.3
- c. Public Advocate and Children and Young People Commissioner – Executive Level 1.3
- d. Victims of Crime Commissioner – Executive Level 1.3

**Conditions under a new determination**

JACS does not consider that any terms or conditions or other non-cash entitlement applying under the current determination need to change in a new determination.

**UNCLASSIFIED**

**Sensitive**

(Attachment A – Hyperlink to Bill – added by Tribunal secretariat)

See: [http://www.legislation.act.gov.au/b/db\\_53095/default.asp](http://www.legislation.act.gov.au/b/db_53095/default.asp)

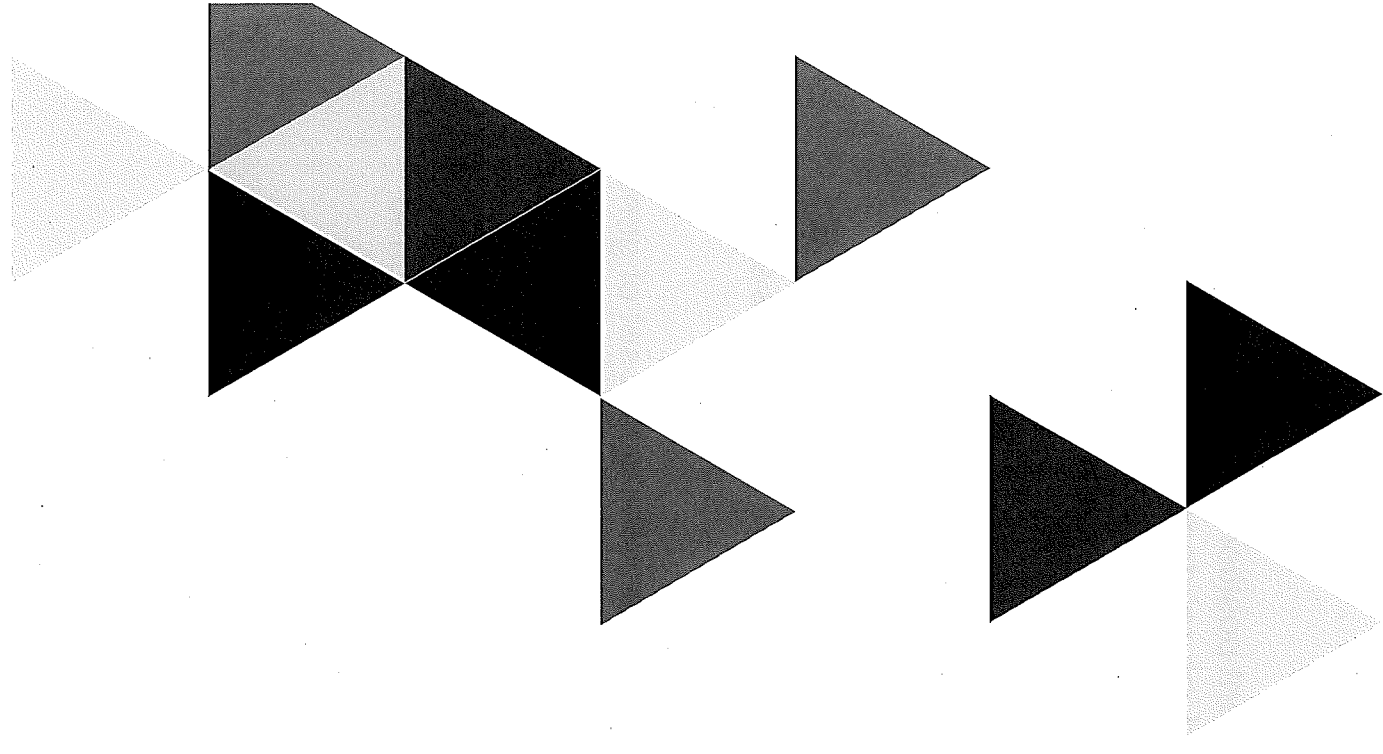
**Sensitive**  
**UNCLASSIFIED**

Attachment B

HEALTH WEALTH CAREER

# OVERVIEW MERCER JOB EVALUATION

## MERCER 2015



© 2015 Mercer Human Resource Consulting

# OVERVIEW MERCER'S CED JOB EVALUATION

- Job Evaluation is a method for assessing the relative work value of different positions in an organisation. It compares the content and demands of a position against a set of defined job related criteria. Job Evaluation is not concerned with judging or comparing people or their performance. It provides a systematic, defensible approach for the grading of positions within a job classification system and provides a sound basis for salary administration and human resource management.
- The Mercer CED Job Evaluation Methodology is designed to measure the relative size of positions. It measures the major components of job worth to achieve this. This well established method examines the complexity of job demands of individual positions in a way that allows a systematic and analytical comparison of positions. Information used in the job evaluation process may come from interviews with incumbents or managers, from specifically designed questionnaires completed by job incumbents and/or from position descriptions.
- In conducting evaluations (whether it be in a particular organisation/agency or according to a set of generic position descriptions), a position is measured in terms of the actual requirements of the job, rather than the experience or skills possessed by the particular incumbent of the position.
- The Mercer CED Job Evaluation Methodology expresses the worth of a position in work value points. These points are determined by assessing eight subfactors which are based on a systems approach to understanding jobs. This approach considers all jobs in terms of:
  - the inputs required for the position
  - the processes involved in carrying out the functions of the job
  - the outputs required for the position

# FACTORS MERCER'S CED JOB EVALUATION METHODOLOGY

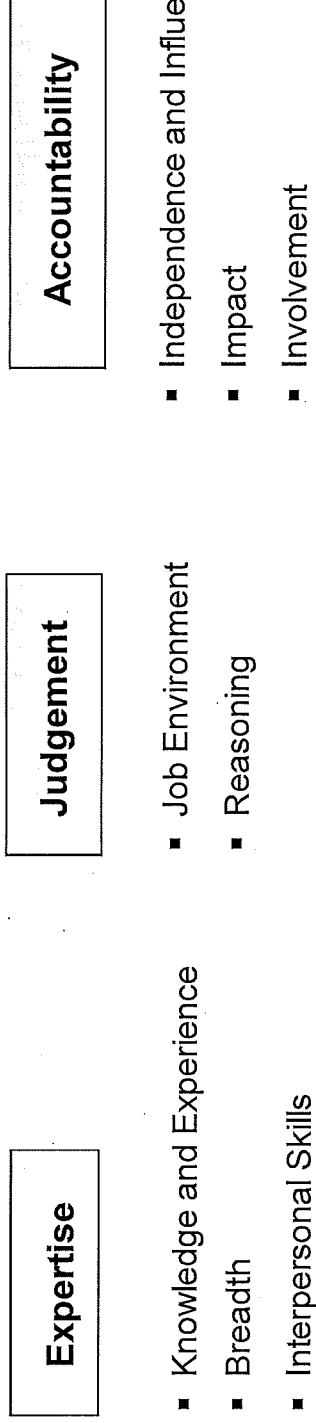
The eight Mercer CED sub-factors form three primary factors:

- the **required inputs**, defined in terms of the skills, knowledge and experience needed to do the job. This is referred to as **EXPERTISE**.
- the **processing components of the job**, defined in terms of the complexity of tasks, and the requirement for resolving problems. This is referred to as **JUDGEMENT**.
- the **outputs from the job**, defined in terms of the impact, influence and independence of the position. This is referred to as **ACCOUNTABILITY**.



# SUB-FACTORS MERCER'S CED JOB EVALUATION METHODOLOGY

In the evaluation process for each job, assessments are made for each of the eight sub-factors. These sub-factors are:



Each subfactor typically has from three to eight levels. The definitions for each level determine how the position is rated on each sub-factor.

In a job evaluation exercise, each position's requirements are compared with detailed, standard definitions to find the level of each subfactor which most accurately describes the characteristics of the job.

Once each subfactor has been assessed, work value points can be determined. Mathematically derived points charts are used to assign numerical points to factors. The total of the points assigned for all factors is the work value score for the position: it indicates the relative size of the job in terms of intrinsic work value.

# SUB-FACTORS MERCER'S CED JOB EVALUATION METHODOLOGY

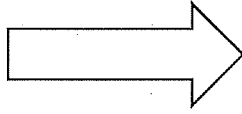
The work value analysis conducted as part of this exercise comprises a comparative profile which has been derived from the application of the Mercer CED methodology to the position reviewed. The profile is a record of the comparative level of presence of each of 8 universal job sub-factors.

## Sample Profile

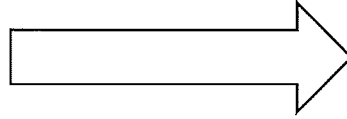
Expertise	Judgement	Accountability	Total
F- 3+ d 203	D- 4 144	E- 2+ d 234	581



F- Knowledge & Experience  
3+ Breadth  
d Interpersonal Skills



D- Job Environment  
4 Reasoning



E- Independence & Influence  
2+ Impact  
d Involvement

Each subfactor may be defined as -, = or + levels as a result of evaluation fine-tuning, which is an integral part of the process. Point scores are derived for Expertise, Judgement and Accountability profiles and the summation of these three scores provides the overall total Mercer CED points score.

In this example, **Expertise (203) + Judgement (144) + Accountability (234) = Total 581 points.**

# SUMMARY MERCER'S CED JOB EVALUATION METHODOLOGY

**EXPERTISE FACTOR**

The expertise factor measures the requirements of the position for education, training and work experience, the diversity of individual tasks as well as interpersonal skills.

**ACCOUNTABILITY FACTOR**

This factor evaluates the nature of the position's authority and involvement in managing the organisation's resources. It includes the influence of the position's advice and accountability for results of decisions.



**Knowledge & Experience**

This subfactor measures the education, training and work experience requirements of the position. As knowledge is the result of education and training and experience, both the nature and extent of knowledge are considered. When evaluating a position, we consider the training and experience required to do the job. This does not necessarily reflect the training and experience of the current job holder.



**Job Environment**

Job environment identifies the clarity, objectives, guidelines and policies as well as the nature and variety of tasks, steps, processes, methods or activities in the work performed. It measures the degree to which a position holder must vary the work and develop new techniques.



**Impact**

This subfactor is measured in terms of the resources for which the position is primarily held accountable or the impact made by the policy advice or service given. It may be measured in monetary terms or on a policy/advice significance scale.

**Breadth**

This aspect of expertise measures the diversity of functions performed by the position. It considers not only the breadth of knowledge requirements for the position but also the impact of various environmental influences on the position. Such influences may include geographic considerations or the variety and nature of product/services and suppliers/clients. The breadth subfactor also considers the need to integrate diverse or related activities.

**Independence & Influence**

This subfactor focusses on the position's level of accountability and independence in the commitment of resources, provision of advice or delivery of services. The requirement for acting as a spokesperson for the organisation is also considered. The extent of accountability is considered in conjunction with the position impact measure chosen.

**Reasoning**

This facet of judgement focusses on the requirements in the position for reasoning, analysis and creativity. Its emphasis is on the need for analysing and solving problems.

**Interpersonal Skills**

This subfactor measures the position's requirement for skill in managing people and in negotiations. It is NOT meant to be a measure of the amount of interpersonal skills possessed by any incumbent, but rather is concerned with the people management, persuasive and negotiating skills required to achieve the position objectives.

**Involvement**

The involvement subfactor is concerned with the nature of the position's accountability for the management of, or influence over, organisation resources. For example, one consideration might be whether the position has accountability for a particular resource fully delegated to it or shared with other positions.

**MAKE  
TOMORROW,  
TODAY**



