Review of Remuneration Relativities among Australia's Federal Courts

REPORT

October 2009

REVIEW OF REMUNERATION RELATIVITIES AMONG AUSTRALIA'S FEDERAL COURTS

Background to the Review

In 2001 and 2002 the Remuneration Tribunal conducted a review of the remuneration of judicial and related offices. The Tribunal released a statement on the review in November 2002. This statement is available on the Tribunal's website[1]. While the 2002 review was finalised at the time, the Tribunal commented, at paragraph 4.3.5:

> The Judges of the Federal Court and Family Court are remunerated currently at the same level. The Tribunal has some unresolved questions about the current nexus that it was unable to progress at this stage. Without wishing to prejudice future deliberations of the Tribunal, it considers this issue may be better explored at a future date.

In 2007 the Tribunal decided that it then had the capacity to explore the unresolved question about the relative remuneration of the Federal and Family Courts. However, between July 2001, when the original review was commenced, and 2007, when the current review was set in train, it was evident that the scope of the review would need to be widened.

In 2001 the Federal Magistrates Court, or Federal Magistrates Service as it was then known, was relatively new and was populated by only 16 Magistrates including the Chief Federal Magistrate. By July 2007 this figure had increased to 49 Federal Magistrates; by June 2009 the number had increased further to 61.

While the Federal Magistrates Court has a broad federal jurisdiction, it has always been the case that around 90% of the workload of the Court has been in family law.

From its commencement, the role of the Federal Magistrates Court, or Service, was summed up by the then Chief Federal Magistrate thus:

> The Federal Magistrates Service has one outcome: to provide a cheaper, simpler and faster method of dealing with less complex Family Court and Federal Court matters[2].

To the Tribunal, the expansion of the Federal Magistrates Court posed inevitable questions - how had this changed the work of the superior courts, and had the superior courts ensured that the lower court was fulfilling its mission to the optimum level by handling all of the casework within its competence?

The inclusion of the Federal Magistrates Court in the review was given impetus by the Court itself. In March 2007 the Court provided the Tribunal with a submission for an increase in pay for the Federal Magistrates based on a claim of increased work value. The submission was supported by a report commissioned by the Federal Magistrates Court and written by the Hon Barrie Hungerford QC.

After initial consideration of the Federal Magistrates Court's submission, the Tribunal decided that it would be appropriate to defer consideration of the matter until it had commenced its review of the Federal and Family Courts. It seemed logical to the Tribunal that the work value considerations of one court

[1] http://www.remtribunal.gov.au/determinationsReports/byYear/2002dets/2002-21Statement.pdf
[2] Federal Magistrates Service, Annual Report 2000/2001, p6

that shared jurisdiction with other courts must also impact on the work value of the other courts.

History of Remuneration

The history of the actual remuneration of the courts from their inception is set out in the table in Appendix 1 of this report. While it would appear that the figures may speak for themselves, the story behind the history is not uncontested.

From the Family Court's commencement in 1976 until 1989, its Judges were paid at a level lower than that of their counterparts in the Federal Court. During this period the Tribunal had an advisory role in relation to judicial remuneration, although the Government normally adopted the Tribunal's recommendations. In 1990 the Government rejected a Tribunal recommendation on judicial remuneration and at the same time legislated to align the salaries of the two Courts, with this decision backdated to March 1989. Since that time, originally under legislative fiat, and more recently in consequence of Determinations of the Remuneration Tribunal, Judges of the Family and Federal Courts have been paid at the same level.

The Family Court has submitted that it was always the intention of Government to align remuneration of the two Courts – that the early differential was an 'accident of history'[3]. The Tribunal is not in a position to argue conclusively on this issue. However, the figures confirm that there was, for over a decade, a non-alignment of remuneration between the Courts, during which period both Courts continued to function with apparent success.

Role of the Tribunal

The Tribunal's primary legislative obligation in relation to the holders of public office, including judicial offices, is to 'inquire into, and determine, the remuneration to be paid to the holders of public offices'[4]. In inquiring into this matter, the Tribunal also has the power to inquire into, and determine, matters which it considers to be significantly related to the remuneration issue.

The Tribunal's establishing legislation does not fetter the Tribunal's discretion to set the remuneration that it sees fit for individual offices, other than providing the Australian Parliament with the power to disallow the Tribunal's Determinations. In the case of judicial offices, however, the Tribunal is constrained by section 72(iii) of the Australian Constitution, which specifies that there shall be no diminution of the remuneration of a Judge of a court created under the Constitution during their continuance in office. Each of the courts examined in the review is a court created under the Constitution, or, in the case of the High Court, created by the Constitution.

It is the view of the Tribunal that the establishing legislation gives the Tribunal the obligation to set remuneration for each 'public office', as that term is defined in the *Remuneration Tribunal Act 1973*. In its Determinations, the Tribunal sets remuneration for each office as a dollar amount. While the Tribunal has stated frequently that the general framework of public remuneration is important to the setting of remuneration for each office, the Tribunal only 'determines' relativities coincidentally, by setting one dollar figure for one office, and another dollar figure for another office.

[3] Oral submission to the Tribunal from Family Court 13 August 2009
[4] Section 7(3) *Remuneration Tribunal Act 1973*

Since the Tribunal gained the power to determine federal judicial remuneration in the 1990s, it has determined a figure for Judges of the Federal Court and a figure for Judges of the Family Court. Up to the present time these figures have been the same, but the Tribunal has never expressly determined the remuneration of one court in relation to the remuneration of the other. The Tribunal does not accept that these figures must always be the same.

The constitutional provision mentioned above would always be a relevant consideration for the Tribunal if it were to decide to change the relative remuneration of different judicial offices – the only way this could be achieved would be to increase the remuneration of one court comparatively to that of another court. In practical terms, if there were no rationale for providing a work value increase to any court, there could be no rationale for changing relativities.

The legislation establishing the Tribunal also obliges the Tribunal to re-determine remuneration for public offices at periods of no more than one year. In relation to judicial offices, it is the practice of the Tribunal to invite submissions each year. This process is intended to allow the courts to bring developments in their jurisdiction to the Tribunal's attention at regular intervals. This is not, however, the only occasion on which the Tribunal will consider relevant matters – after all, the legislation says at periods of no more than one year, rather than once a year.

The Tribunal's intention was to treat the review of relativities as separate from, and additional to, the question of annual reviews. Thus the Tribunal in early 2007 invited the courts to make submissions to the annual review; then in the middle of the year invited the courts to make submissions also to the review of relativities.

Consistent with the Tribunal's annual review decisions, judicial remuneration increased from 1 July 2007 and from 1 July 2008. In 2009, because of the economic circumstances then prevailing, the Tribunal held over its decision on an annual adjustment until at least 1 October 2009. This applied to judicial offices, just as it did to all offices in the Tribunal's jurisdiction.

In its decision, effective from 1 October 2009, the Tribunal increased judicial remuneration by 3%. This decision was also consistent with the Tribunal's decision for other public offices.

Commencement of the Review

On 17 May 2007, following receipt of the Federal Magistrates Court's 'work value' submission, the President of the Tribunal wrote to the Chief Federal Magistrate making some preliminary comments. The letter noted that it appeared to the Tribunal that how work was transferred between the Federal Magistrates Court and the superior courts with whom the Federal Magistrates Court shared jurisdiction was a matter of prime importance in determining changes to the Magistrates' work value.

On 23 May 2007 the President wrote to Chief Justice Black of the Federal Court, Chief Justice Bryant of the Family Court and Chief Federal Magistrate Pascoe noting that 'the Tribunal has the impression that there continue to be questions about the remuneration relativities among your Courts, and that they should be addressed'. The Tribunal set out a number of issues it considered might be useful as relativity criteria and asked for comment on them.

Each court was invited to make submissions about the matters before the end of September 2007. In the invitation, the Tribunal noted that its intention was that it would draft conclusions on relativity factors and their impact on remuneration relativities; and that the Tribunal would discuss preliminary conclusions with the parties before reaching a final decision.

The High Court of Australia and the Government, as represented by the Attorney-General, were not asked for submissions. They were, however, copied into the correspondence.

The Tribunal's letters of May 2007 did not set out a timeframe for completion of the review. However, the Tribunal's expectation at the time was that the matter might be finalised within the 2008 calendar year.

Responses

The Family Court supplied a substantial submission dated September 2007.

The Federal Court, having requested an extension of time, supplied its submission on 30 October 2007.

The Federal Magistrates Court, also having requested an extension of time, made its submission on 16 November 2007. The Federal Magistrates Court noted that its submission was 'supplementary', the Court relying in the main on Mr Hungerford's paper of March 2007.

Initial Consideration

The Tribunal gave due consideration to each of the submissions over the period between late 2007 and early 2008. The Tribunal then wrote to each of the Chief Judicial Officers in March 2008, making some preliminary observations. A summary of those letters, which also summarises the information that the Tribunal gleaned from the various submissions, follows:

The Family Court

> The Tribunal set out its understanding of the history of remuneration, noting that in its view the increase to parity with remuneration of the Federal Court in the 1980s was accompanied by a broadening of jurisdiction for Family Court Judges. This broadening of jurisdiction appeared to have occurred only ever in name rather than in practice.
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> The Tribunal questioned whether differential rates of pay would affect recruitment and retention in the Family Court, as stated in that Court's submission, considering that information available to the Tribunal suggested that appointments to the Federal and Family Courts may not be normally made from the same recruitment pool.
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> The Family Court's submission had been based, in the Tribunal's view, largely on claims of the high complexity of the workload of its Judges. However, the Tribunal pointed out that the Federal Magistrates Court submission claimed that the caseload of Magistrates and Family Court Judges was from time to time interchangeable and asked how this could be consistent with the Family Court's submissions on complexity.
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> The Tribunal also questioned comparisons in the Family Court's submission to the Family Division of the United Kingdom's High Court, noting that the numbers of those two Courts, adjusted for the population of the two nations, did not seem to support the Family Court's

comparison. Further the Tribunal questioned whether there was a quantifiable difference between the Appeals and General Divisions of the Family Court.

The Federal Magistrates Court

The Tribunal noted that it accepted most of the principal findings of Mr Hungerford's report, which appeared to be findings of fact in relation to matters such as the Court's concurrent jurisdiction with the superior courts. Where the Tribunal expressed differences from Mr Hungerford's report, however, was in relation to the conclusions to be drawn from those findings.

The Tribunal accepted that the scope of work of the Federal Magistrates Court as a whole had increased over time. However, the Tribunal also noted that the number of Magistrates had increased. The role of the Tribunal is to set remuneration for Magistrates, rather than providing funding for the Court, and thus the Tribunal requested further information to demonstrate that arguments on the broadening of the scope of the Court's jurisdiction could also be applied to the role of individual Magistrates.

The Tribunal also noted that the basic motivation for establishing the Federal Magistrates Court was that it handle competently and quickly the majority of less complex matters arising in federal, including family, law. The Tribunal considered that this was still the main task of the Federal Magistrates Court, albeit one that it was performing to a high standard. This was not regarded by the Tribunal as a compelling argument for an increase in remuneration.

The Tribunal further requested information about the allocation of matters between the Family Court and the Federal Magistrates Court. The point behind this was that the Family Court's and Federal Magistrates Court's submissions were inconsistent in some respects – while the Family Court submitted that its Judges did only the most complex work, the Federal Magistrates Court submitted that Magistrates 'may, and often do, hear matters of the same or similar complexity as judges of the superior courts'.

Assuming that the Magistrates performed these tasks competently, and there was certainly no evidence to the contrary in this regard, this again raised the question of whether this meant that judges of the superior court were occupied in doing tasks that could be done by Magistrates.

The Tribunal asked for more information about the division of caseload, and the basis for assessing 'complexity'.

The Federal Court

The letter to the Federal Court covered, in part, similar issues to those in the letter to the Family Court. Issues specific to the Federal Court's submission were also discussed.

The issue of recruitment and retention is an issue often raised with the Tribunal, not just by courts. To the Tribunal it seems often the case that recruitment difficulties are regarded by people making submissions as self-evident, with the result that they are simply asserted rather than

demonstrated. Considering the skills and reputation of those who have accepted appointment to the Federal Court, the Tribunal regards recruitment difficulties as far from self-evident. Put otherwise, the Tribunal is not convinced that higher remuneration would lead to superior appointments at this time, but accepts as a factor the increasingly divergent remuneration of a judge compared to, for example, a successful member of the Bar. The effect of this is to make it more difficult in practice for a younger man or woman to accept appointment to the Federal Court, resulting, possibly, in a skewing of the demographic profile of the Court with an accompanying shortening of the duration of appointments prior to statutory retirement. This is an emerging factor to which the Tribunal intends to give further attention.

The Tribunal advised the Federal Court that it considered the overlap between the superior court and the Federal Magistrates Court, which was apparent in family law, may also apply to other federal law, and asked for information on why such an overlap persisted.

Overall, the Tribunal expressed the view that there was not the level of detail in the Federal Court's submission which would provide the Tribunal with a reason to increase remuneration for the Federal Court. As stated previously, if there was no case for increasing the remuneration of any court, then there was no capacity for the Tribunal to give effect to any review of relativities.

Later Submissions

After this correspondence with the Federal Court, agreement was reached that the Federal Court would provide a further submission by June 2008.

The Review of Family Law Services

In May 2008 the Attorney-General wrote to the Tribunal, noting that the Government had commissioned a review of the structure of the federal courts, and particularly of those courts that provided family law services. The Attorney-General expressed the view that it would be premature for the Tribunal to complete its relativities review until the future directions of the courts were more settled. The Tribunal concurred with this approach, and in May 2008 the President wrote to the courts advising the postponement of the finalisation of the relativities review until the Government had considered any recommendations arising from the review (of family law services).

Nevertheless the Tribunal, knowing that the Federal Court was preparing a further submission, advised the Court that it would still accept that submission, and the Federal Court provided its submission to the Tribunal on 16 June 2008.

On 8 May 2008, prior to the Tribunal advising the Federal Magistrates Court about the delay of the process, the Tribunal also received further statements from a number of individual Federal Magistrates, noting the complexity of their work, and the high expectations on them.

Outcome of the Review of Family Law Services (the Semple Report)

The review of family law services, conducted for the Government by Semple and Associates (the Semple Report), was completed in August 2008, and public discussion was then invited on its recommendations.

The primary recommendation of the review was that the federal court structure should be streamlined. The High Court, whose role was not a subject of the review, would remain at the apex of the structure, but beneath the High Court there would be only two courts, each of two divisions.

The two courts would cover the whole gamut of federal law – with one court covering family law, and contingent matters arising within family law caseload, and another court covering the rest of the federal law jurisdiction. The upper division of the 'new' Family and Federal Courts would still perform the functions of a superior court, and would be comprised of Judges of the standing of the current Judges of the Family and Federal Courts. Indeed the personnel would comprise the current Judges of the Family and Federal Courts.

The lower divisions of the two courts would comprise judicial officers of equivalent standing to the current Federal Magistrates, including such of those Magistrates as would accept a commission in the new courts. The ultimate intention was to abolish the Federal Magistrates Court as a separate entity, an end that could only be achieved effectively when there remained no current appointments to that Court. Any Magistrate who did not accept a commission in the new structure would remain as a Federal Magistrate, and would be expected to handle such family law matters as were transferred.

In effect, it appears to the Tribunal that for caseload purposes they would be treated as a judicial officer of the lower division of the Family Court whether or not they had accepted such a commission. It is a clear implication of the Semple Report that it was hoped that there would be no need for such an approach, and that the Federal Magistrates Court would cease to exist.

The review papers suggested that an appropriate number of Judges in the appeals and complex cases, or upper, division of the new Family Court would be 25. The Tribunal notes that the number of Judges appointed to the Family Court was 36 at 31 October 2008; 35 at 30 June 2009; and 36 at 30 September 2009.

It seems apparent that for the new federal law structure to be put in place as set out in the review papers, there would need to be significant legislative change. For example, the Acts establishing the Federal and Family Courts would need to be amended to enable the appointments of judicial officers of a lower division.

The outcome of the review of family law services confirmed the Tribunal's concerns about the Family Court. If it were accepted that the new upper division of the Family Court would successfully handle the appeals and most complex matters caseload with 25 judicial officers, this seemed to the Tribunal consistent with its hypothesis that the Family Court may well have been handling caseload which could have been, and in future would be, handled by officers of equivalent standing to current Federal Magistrates.

To the Tribunal, this again called into question the Family Court's submission that it had, at October 2007 when it had 40 Judges, been handling only the most complex cases. There was no evidence that the number of complex matters had decreased – just the opposite, if anything.

The Tribunal's Indicative Decision

After considering the submissions of each of the courts and after considering the implications of the review of family law services on the other courts, the Tribunal wrote to the Chief Judicial Officer of each court, and to the Attorney-General, in November 2008.

The Tribunal accepted that the role of the Federal Court had expanded significantly over the years, to an extent greater than the normal increase in workload and complexity. Such a 'normal increase' tends to be the lot of every office in the Tribunal's jurisdiction. With respect to the Federal Court, the Tribunal noted the increased breadth of law, including the number of legal and factual issues both across caseload and within individual cases, which a Federal Court Judge must now consider to fulfil his or her day to day duties.

The Federal Court's submission of 16 June 2008, particularly Part 4 'Further analysis', framed its argument in terms of comparative data between the Federal and Family Courts. However, the Tribunal considered that the data in relation to the increasing legal and factual complexity of the Federal Court caseload alone was compelling, even without the comparative analysis.

The Tribunal concluded that there was a work value case to increase the remuneration of the Judges of the Federal Court by 6%. At the same time, the Tribunal noted the Attorney-General's views about the difficult economic circumstances in which Australia, and indeed the world, found itself, and decided at the time not to put the increase into effect until at least 1 July 2009. The Tribunal did not nominate this date as the date on which an increase would occur – but rather the time when the Tribunal would revisit the circumstances to decide if the increase should then be determined.

The Tribunal accepted that such an increase in legal complexity relating to the Federal Court also related logically to its superior court – the High Court of Australia. In these circumstances the Tribunal was firmly of the view that any percentage increase in remuneration for the Federal Court should flow to the High Court.

In its submissions the Federal Court had submitted that the gap between remuneration of the High and Federal Courts had increased to an unsustainable level in dollar terms, and that an increase of around $20,000 for Federal Court Judges, which would move Federal Court Judges' remuneration to around 90% of that of a High Court Judge, would alleviate the perceived problem.

The Tribunal did not accept this argument. It is clear that in purely mathematical terms the dollar gap between the salary of a Federal Court Judge and that of a High Court Judge has increased. However, the Tribunal does not accept that the gap in real terms has increased – inflation has caused the dollar gaps between many offices in the Tribunal's jurisdiction to increase without the percentage relativities of those offices changing.

In summary, the Tribunal concluded that, since most of the 'work value' changes in the Federal Court would apply *ipso facto* to the High Court, the same 'work value' change in remuneration, expressed as a percentage, would apply to the High Court.

In regard to the family law courts, the Tribunal noted that it was aware of the recommendations of the review of family law services. If those recommendations were implemented then the Tribunal considered that it would be unlikely that there would be material and quantifiable differences between the Judges of the Federal and Family Courts so as to justify a departure from the existing relativities.

The Tribunal noted that it was of the view that the increase indicated for the Federal Court may also apply to the Family Court when it was accepted that the

demonstrable and sustained transfer of all of the more straightforward matters to the lower court, or to the lower division of the new court, had occurred.

However, the Tribunal noted its concern that, should the changes to family law not be implemented, there still seemed to be a considerable overlap of work between the General Division of the Family Court and the Federal Magistrates Court. This was a view that was also expressed in Part 5 of Mr Semple's report for the Government. In these circumstances, the Tribunal questioned whether a work value case for an increase could apply.

This led the Tribunal to question whether there may be a difference between the Appeals and General Divisions of the Family Court which might be recognised in remuneration. The Tribunal considered that by the nature of its work the Appeals Division certainly handled work of a complex nature on a daily basis. While the Tribunal accepted that matters in the General Division could be, and often were, of a complex nature, it was not confident that this was always the case. The overlap in work between the Family Court and the Federal Magistrates Court appeared to occur in the General Division, rather than the Appeals Division. It was this factor that caused the Tribunal to pose the question of whether differential remuneration might be appropriate.

The situation for the Federal Magistrates Court was similar. When the Tribunal became satisfied that only the most complex matters were being handled in the superior court, then it also became the case that the complexity of workload in the lower court increased – Family Court Judges were no longer, or to a lesser degree, handling the somewhat complex matters which could equally be handled by Federal Magistrates. The caseload complexity of the Federal Magistrates Court vis-à-vis the Family Court certainly had not decreased, so that there would be no question of increasing remuneration for the Family Court by more than an increase in remuneration for the Federal Magistrates Court.

However, the future role and status of Federal Magistrates remains perhaps the most open question of any aspect of the implementation of the review of family law services. The Tribunal has left open the question of what the final remuneration of the Magistrates may be.

Developments after November 2008

The reaction to the Tribunal's indicative decision was mixed. The Attorney-General expressed strongly the view that the current relativities between the superior federal courts remained appropriate. The Attorney-General also expressed the view that the then current economic circumstances should preclude any remuneration increases.

The Family Court provided further information to the Tribunal both in written form and in a meeting with the Tribunal.

The Federal Magistrates Court considered that it had made a case for a work value increase and that waiting for the outcome of the review of family law services was unnecessary. However, additional material was provided by the Federal Magistrates Court and there was a meeting with the Tribunal in September 2009.

Changes following the Review of Family Law Services

While the legislative amendments necessary to finalise the realignment of the federal court structure have not yet occurred, the Tribunal has been satisfied

that the family law courts have adopted in practice the principles outlined in the review papers. In reaching this conclusion, the Tribunal has met with judicial officers of the Family Court and of the Federal Magistrates Court, and considered further written information.

The Family Court and the Federal Magistrates Court now have a single administrative structure overseen by a single Chief Executive Officer, albeit one who has, formally, dual appointments. The Chief Justice of the Family Court and Chief Federal Magistrate have agreed on an updated protocol regarding the direction of casework to the appropriate level of judicial office in the Courts.

One significant adjustment is the fact that matters are now directed to the Family Court if it is likely that a final hearing would take in excess of four days. In the past the relevant length of expected hearing was two days. The corollary of the Family Court handling matters of more than four days' duration is that matters likely to take four days or less, rather than two days or less as in the past, are directed to the Federal Magistrates Court.

The Tribunal is satisfied that it is not only the minimum length of cases that has increased in the Family Court. This has also had the effect of increasing the average length of cases from two days to, currently, four and a half days. It is expected that this average will increase further in the future.

Complexity is not a concept that is easily defined, as is noted in Part 5 of the Semple Report, and the Tribunal accepts that it will always be the case that the occasional matter could have been heard in the other court, or the other division of the court should the court be so structured.

Nevertheless, while the length of case is not the only indicator of complexity, the Tribunal is satisfied of its importance as an indicator. The Tribunal accepts that the changes to the protocols mean that caseload is now being more accurately, and more frequently, directed to the appropriate level of judicial office than the Tribunal considered to be the case previously.

The numbers of Judges in the Family Court is not a subject on which predictions can be made with certainty. In the absence of judicial incapacity or misbehaviour, the appointment of a Judge continues until he or she turns 70 years of age. The Judge himself or herself can of course retire earlier. While there may be a desire to reduce numbers in a court, any reduction can only be achieved by waiting for judicial officers to leave either of their own volition or by reaching the retirement age.

That said, the Tribunal is satisfied that numbers in the Family Court are more likely than not to reduce, thus strengthening the case that the remaining Judges will only be performing the most complex matters.

With these changes in the Family Court, the Tribunal could not, at this stage, find the material and quantifiable differences between the Judges of the superior courts that would justify a departure from the current alignment.

This decision meant that the Tribunal's question on whether there was a difference between the Divisions of the (current) Family Court that could be quantified in remuneration was answered, at this time, in the negative. Rather, the remuneration of all superior court Judges would remain the same.

The Decision

The Tribunal remains of the view that economic circumstances preclude the granting of the full increase of 6%. The Tribunal has decided on adjustments of 1.5% for judicial offices in the High Court, Federal Court, Family Court and Federal Magistrates Courts from 1 November 2009.

The Tribunal's present intention is to determine three further 1.5% adjustments for each of the judicial offices concerned, subject to the considerations in the final section of this report. While the actual decisions on timing are for the future, the Tribunal is of the view that the total increase would have occurred by 1 May 2011.

The Tribunal is aware that the remuneration of judicial offices in the states and territories is based on remuneration in the federal court system. In making its decision, the Tribunal has taken into consideration factors pertaining specifically to judicial offices in the federal sphere. Accordingly the Tribunal is of the view that any adjustment to the remuneration of judicial offices in the states and territories would need to be based on specific issues particular to each jurisdiction. The Tribunal also notes that adjustments to federal judicial remuneration have no bearing on the remuneration of the non-judicial offices in the federal system. The Tribunal anticipates that its policy in this regard will be taken into account by the relevant state and territory determining authorities.

Family Law System - Conditionality of Subsequent Adjustments

The Tribunal will continue to pay close attention to the general economic situation. The Tribunal has noted elsewhere, in its 2009 Review of Remuneration for Holders of Public Office[5], that the economic situation appears to be improving, although this is not certain.

The Tribunal will also continue to monitor the restructuring of the family law courts, so as to be confident that the developments expected, at this time, to occur in the family law system are realised. The application of the three further adjustments foreshadowed in this statement is contingent on this.

The Tribunal will also watch developments in the Federal Magistrates Court closely, with a view to deciding whether any changes in the roles and status of its Magistrates in the federal judicial structure may warrant an alteration in their remuneration, relative to that of judicial officers of the immediate federal superior courts.

[5] http://www.remtribunal.gov.au/statementsreports/Statement%20-%2024%20September%202009.pdf

	Determination	Chief Justice / Chief Magistrate							Senior Judge Remuneration	Judge / Magistrate						
		Federal Court	Family Court			FMC				Fed Court	Family Court			FMC		
			$	Increase	% of Fed Crt	$	Increase	% FMC of Fed Crt			Family Court	Increase	% Fam of Fed	FMC	Increase	% FMC of Fed Crt
5/01/1976	Legislation	-	$38,250	-	-				$36,750	-	$31,500	-	-			
1/06/1976	1976/02	-	$41,750	9.2%	-				$40,000	-	$35,000	11.1%	-			
1/06/1977	1977/02	$50,950	$46,750	12.0%	92%				$42,500	$46,500	$38,500	10.0%	82.8%			
1/07/1978	1978/02	$53,659	$49,255	5.4%	92%				$44,785	$48,980	$40,590	5.4%	82.9%			
1/07/1979	1979/02	$57,975	$52,975	7.6%	91%				$46,700	$52,700	$43,200	6.4%	82.0%			
1/07/1980	1980/02	$68,075	$62,075	17.2%	91%				$54,800	$61,800	$50,800	17.6%	82.2%			
1/07/1981	1981/02	$76,375	$70,375	13.4%	92%				$62,075	$70,075	$58,075	14.3%	82.9%			
1/07/1982	1982/03	$82,500	$75,500	7.3%	92%				$68,000	$75,500	$64,000	10.2%	84.8%			
6/10/1983	1983/02	$85,854	$79,075	4.7%	92%				$70,774	$78,575	$66,602	4.1%	84.8%			
1/07/1984	1984/05	$94,656	$87,176	10.2%	92%				$77,862	$86,636	$73,747	10.7%	85.1%			
1/01/1985	1984/05	$99,484	$91,601	5.1%	92%				$81,844	$91,061	$77,509	5.1%	85.1%			
1/07/1985	1985/02	$102,159	$94,071	2.7%	92%				$84,040	$93,507	$79,592	2.7%	85.1%			
1/07/1986	1986/02	$106,316	$97,921	4.1%	92%				$87,448	$97,305	$82,831	4.1%	85.1%			
1/01/1988	1987/04	$112,786	$103,940	6.1%	92%				$92,856	$103,267	$92,856	12.1%	89.9%			
1/03/1989	1988/03	$206,750	$196,750	89.3%	95%					$186,004	$167,251	80.1%	89.9%			
13/06/1989	Report	$113,099	$104,253	-47.0%	92%		-			$103,580	$93,169	-44.3%	89.9%		-	
1/03/1989 (backdated)	By Legislation	$135,650	$135,650	30.1%	100%					$124,277	$124,277	33.4%	100.0%			
23/05/1990	1990/11	$144,000	$144,000	38.1%	100%					$132,000	$132,000	41.7%	100.0%			
		$154,000	$154,000	47.7%	100%					$142,000	$142,000	52.4%	100.0%			
1/07/1990	By Legislation	$143,789	$143,789	6.0%	100%					$131,734	$131,734	6.0%	100.0%			
1/01/1991	By Legislation	$152,416	$152,416	6.0%	100%					$139,638	$139,638	6.0%	100.0%			
15/08/1991	1991/21	$156,226	$156,226	2.5%	100%					$143,129	$143,129	2.5%	100.0%			
19/05/1993	1993/02	$161,538	$161,538	3.4%	100%					$147,995	$147,995	3.4%	100.0%			
21/12/1993	1993/15	$164,769	$164,769	2.0%	100%					$150,955	$150,955	2.0%	100.0%			
19/08/1994	1994/24	$178,685	$178,685	8.4%	100%					$163,705	$163,705	8.4%	100.0%			
25/08/1995	1995/15	$185,904	$185,904	4.0%	100%					$170,319	$170,319	4.0%	100.0%			
19/08/1996	1996/11	$193,805	$193,805	4.3%	100%					$177,558	$177,558	4.3%	100.0%			
19/08/1997	1997/12	$202,526	$202,526	4.5%	100%					$185,548	$185,548	4.5%	100.0%			
19/08/1998	1998/21	$213,665	$213,665	5.5%	100%				-	$195,753	$195,753	5.5%	100.0%			
1/10/1999	1999/13 2000/07 (FMC)	$224,000	$224,000	4.8%	100%	$170,000	-	76%		$203,500	$203,500	4.0%	100.0%	$147,000	-	72%
1/10/2000	2000/13	$234,400	$234,400	4.6%	100%	$177,900	4.6%	76%		$212,900	$212,900	4.6%	100.0%	$153,800	4.6%	72%
1/10/2001	2001/23	$243,800	$243,800	4.0%	100%	$185,100	4.0%	76%		$221,500	$221,500	4.0%	100.0%	$160,000	4.0%	72%
1/07/2002	2002/21	$260,900	$260,900	7.0%	100%	$198,100	7.0%	76%		$237,100	$237,100	7.0%	100.0%	$171,200	7.0%	72%
1/07/2003	2003/12	$271,336	$271,336	4.0%	100%	$206,030	4.0%	76%		$246,590	$246,590	4.0%	100.0%	$178,050	4.0%	72%
1/07/2003	2002/12	$284,910	$284,910	5.0%	100%	$216,330	5.0%	76%		$258,920	$258,920	5.0%	100.0%	$186,960	5.0%	72%
1/07/2004	2004/17	$296,030	$296,030	3.9%	100%	$224,770	3.9%	76%		$269,020	$269,020	3.9%	100.0%	$194,260	3.9%	72%
1/07/2004	2002/12	$310,830	$310,830	5.0%	100%	$236,010	5.0%	76%		$282,470	$282,470	5.0%	100.0%	$203,970	5.0%	72%
10/12/2004	2004/23	$310,830	$310,830	0.0%	100%	$259,620	10.0%	84%		$282,470	$282,470	0.0%	100.0%	$220,290	8.0%	78%
1/07/2005	2005/11	$323,580	$323,580	4.1%	100%	$270,270	4.1%	84%		$294,060	$294,060	4.1%	100.0%	$229,330	4.1%	78%
1/07/2006	2006/10	$337,820	$337,820	4.4%	100%	$282,170	4.4%	84%		$307,000	$307,000	4.4%	100.0%	$239,430	4.4%	78%
1/07/2007	2007/11	$352,010	$352,010	4.2%	100%	$294,030	4.2%	84%		$319,900	$319,900	4.2%	100.0%	$249,490	4.2%	78%
1/07/2008	2008/09	$367,150	$367,150	4.3%	100%	$306,680	4.3%	84%		$333,660	333,660	4.3%	100.0%	$260,220	4.3%	78%