

Guidelines for Remuneration Tribunal submissions

These guidelines focus on submissions seeking a remuneration determination for one or more public offices. Submissions relating to accommodation and reunion travel assistance should be prepared in accordance with the [Relocation Assistance Guidelines – Accommodation and Reunion Travel](#).

Agencies are encouraged to familiarise themselves with the Tribunal's determinations, frequently asked questions (FAQs), and background on each office on the Tribunal's website.

Who should make submissions?

The Remuneration Tribunal (the Tribunal) prefers to receive submissions from the responsible minister, or a secretary, program manager or employing body (in respect of Principal Executive Offices) with responsibility for the relevant office(s). **The Tribunal will normally seek the views of the relevant minister prior to determining remuneration for an office, so it is most time efficient for the submission to come directly from the minister, or for the minister's views to be provided with the submission.**

Where should submissions be sent?

The Tribunal's preference is to receive submissions in electronic form. Submissions should be sent to: enquiry@remtribunal.gov.au.

Where a new office will only be in the Tribunal's jurisdiction after being 'referred in' (this subject is covered in the 'Establishment of a new public office' section), the submission should be attached to the referral-in request which should be sent to the minister with responsibility for the *Remuneration Tribunal Act 1973* (the RT Act). If in doubt, seek advice from the Tribunal's Secretariat on (02) 6202 3930.

When should submissions be made?

In the case of a new office, as soon as the information necessary to prepare a complete submission is available. This can be done prior to the formal establishment of an office. The Tribunal can make an indicative decision if it does not yet have the power to formally decide an office's remuneration – for example, where the establishing legislation has not yet been enacted. The Tribunal will then finalise its decision once the legal status is resolved.

Where there are amendments to the legislation establishing an office after the Tribunal has made an indicative decision, the Tribunal should be notified as it may need to vary its indicative decision.

In the case of an existing office, submissions can be lodged at any time at which a submission can demonstrate significant changes or developments that affect the office. It should be noted, however, that the Tribunal is more likely to adjust remuneration for an existing office after any changes to that office have actually occurred and have had a demonstrable effect on the office's responsibilities and workload, rather than in anticipation of any changes.

In relation to multiple offices, where an organisation has full-time public offices (including Principal Executive Offices (PEOs) and specified statutory offices) and part-time public offices (including advisory offices), the Tribunal's preference is to consider the remuneration for all categories of offices at the same time (e.g. a full-time CEO and part-time board members).

- When receiving submissions about a review of an office's remuneration or the establishment of a new office, the Tribunal would expect to receive information on all the public offices within that organisation at that time. This will be the case even if no changes are proposed to existing arrangements for those other offices. If these details are not provided the Tribunal may request this information in order to be fully cognisant of the matters affecting the organisation as whole when setting remuneration.

In all cases the Tribunal Secretariat is available to review and provide feedback on draft submissions. The Secretariat can be contacted on (02) 6202 3930.

Will the Tribunal seek further information?

The Tribunal may reach a decision based on the information provided in the submission and other publicly available information; or it may wish to contact the minister or other person making the submission for further information. On occasion it may wish to meet with relevant parties. If this is the case, the Tribunal will make the necessary arrangements. All submissions should include departmental contact details.

When will the Tribunal make a decision?

The Tribunal makes decisions at its regularly scheduled meetings. The dates of these meetings and the dates submissions are due for each meeting are on the [Tribunal's website](#).

Submissions can be lodged at any time. Depending on the volume of submissions, matters may be deferred to later meetings. The Tribunal's Secretariat can provide an estimate of when a matter may be considered by the Tribunal. While the Secretariat cannot guarantee consideration of a matter at any particular meeting, provision of a submission with the responsible minister's views by the due date is required for it to be considered for inclusion on the next meeting agenda.

Once a decision is made, the President of the Tribunal will write to the relevant minister and/or the person who made the submission. The Tribunal relies on the relevant minister or person making the submission to disseminate this information as appropriate.

Where the Tribunal's decision results in the need for a determination to be issued, a determination is generally made within 4 weeks of the meeting. Where the Tribunal has made an indicative determination the decision will be included in a determination once the Tribunal has the power to determine the matter (e.g. after legislation establishing a new office takes effect). In most cases the determination is tabled in the Parliament and published on the website of the Federal Register of Legislation. All Tribunal determinations are published on its website, with an alert sent to those who have registered for them.

Establishing your timeline

- To be included on a particular meeting agenda, submissions are due 6 weeks ahead of the meeting date. Meeting dates and the due dates for submissions for each respective meeting date, are available on the Tribunal's website.
- Clearance processes within your department or agency and minister's office should be factored into your timeline when working towards a particular meeting date. You should make additional time allowance if clearance is required by two ministers.
- 5 business days should be allowed for the Tribunal's Secretariat to review and provide feedback on draft submissions (this is optional, but encouraged). Additional time should be allowed should you wish to address any feedback provided by the Secretariat.

Is my submission confidential?

The Tribunal is subject to the [Freedom of Information Act 1982](#), (the FOI Act).

Submissions made to the Tribunal are clearly documents in the possession of the Tribunal in the terms of the FOI Act, which means that such documents are liable to be released under a freedom of information request unless the document is exempt for reasons spelt out in the FOI Act.

Detailed information on freedom of information can be found on the Office of the Australian Information Commissioner [website](#).

Where a submission contains confidential information, such as the name of an appointee to an office prior to that appointment being publicly announced, this should be clearly indicated in the submission.

Submission structure and general content

While there is no set structure or format for submissions, submissions are commonly structured along the lines of:

- Introduction
- Organisational context
- Description of the office¹
- Comparative analysis with other public offices
- Summary and conclusion (if needed)
- Attachments with supplementary information (if needed).

The content of the submission will vary depending on whether it relates to an existing office or a new office (further detail below). However, all submissions should include information on the organisation's background, its relevant sector, and a description of the office itself. The description of the office should go beyond merely listing its statutory functions, and should aim to give the Tribunal a sense of what its functions will mean in a practical day-to-day sense.

The submission is essentially a business case which should propose a specific level of remuneration for the relevant office and make a case for the proposed level of remuneration. The Tribunal's preference is to set remuneration at a level that already exists within the relevant fee structure, so the proposed remuneration should be at one of those levels. The Tribunal will also determine a travel tier for each office.

The Tribunal's focus is on offices rather than office holders, unless the Tribunal is being asked to make a determination specific to an individual.

Any terminology unique to the office should be explained so the Tribunal can understand its practical implications.

A thorough analysis of comparator offices should be included in the submission. When considering comparators, the submission should draw out their similarities and differences relative to the office under consideration and make conclusions on relativity (this subject is covered in the 'Comparisons with other offices' section below).

Where appropriate it may be useful to include attachments to the submission such as diagrams of new or revised governance structures; tabular summaries of comparator offices and their key characteristics; terms of reference for bodies to which the submission relates; and letters of expectation from ministers which may be useful for new bodies or existing bodies with changed remits and focus, provided they are not classified above OFFICIAL.

The Tribunal does not encourage, and it is not necessary for submissions to include, outsourced remuneration benchmarking reports.

If there is a time imperative, it should be made clear in the submission. For example, if the submission relates to a new office, it should specify when the office is expected to commence – and if needed, include a requested date of effect for the commencement of

¹ For convenience, the term 'office' is used in this document to mean offices in their singular and plural form.

the office's remuneration. If a commencement date is not specified, the Tribunal's decision will in most cases default to the date after registration of the relevant determination.

If legal implementation of a Tribunal decision is contingent upon some other action (such as the passing of a Bill), this should also be explained.

Please be aware, the Tribunal cannot be directly provided with documents classified above OFFICIAL (with any necessary information markers).

Comparisons with other offices

Submissions should identify comparators and draw conclusions on why the office in question should sit at a particular level of remuneration within the relevant fee structure – and receive more than certain other offices and less than others.

The Tribunal has stated frequently that it considers the most relevant comparators for setting remuneration are other public offices in the Commonwealth sector. Among such offices, comparators from within the same fee structure are preferred (i.e. full time offices, part time offices, PEOs etc.). Comparators with offices from other fee structures or offices outside the Tribunal's determinative jurisdiction should be used only where they are relevant in the context of the office under consideration, and there is a lack of more suitable offices for consideration.

Submissions should, at a minimum, make comparisons with offices at the proposed level of remuneration. However comparative analysis which explains why an office warrants more remuneration than offices a level or two down in the fee structure will normally add further weight to a submission's arguments.

Characteristics to consider when making comparisons with other offices might include: the offices' functions, breadth of responsibilities, determinative authority, budgets managed, accountabilities, organisational dimensions, risks managed, and weight of impacts, overall gravitas and any other remarkable factors such as its public profile or unique challenges inherent in its operating environment. If comparing offices across Government Business Enterprises or similar bodies, it may also be useful to take into account relativities in asset bases and annual revenue.

Comparative analysis for PEOs can be challenging, as the remuneration settings for individual PEOs are not published. However, for the purpose of making comparisons across PEOs, the actual remuneration received by office holders as reported in annual reports may be used.

Please note that any personal information about prospective office holder(s) should be supplied in accordance with the *Privacy Act 1988* and **only** if relevant to the purpose of the submission. For example, personal information such as the name of a proposed appointee and his or her current remuneration, term of appointment, employment history etc. may be relevant if a person-specific remuneration package is being sought, or to demonstrate actual recruitment difficulties at the current remuneration level for an office. It is unlikely to be relevant in other circumstances.

Submissions for existing public offices

Content of submission

In preparing a submission for an existing office, the following points should be taken into consideration:

- The annual adjustments determined by the Tribunal take into account the normal increase over time of the responsibilities in public offices in general.
- Submissions for an adjustment in remuneration should provide a sound case both for varying the current arrangements and for going above or below normal annual increases.
- Comparisons with the remuneration of alike offices should draw out the similarities and differences relative to the office under consideration and make conclusions on relativity. As noted above, the Tribunal has stated frequently that it considers the most relevant comparators for setting remuneration are other public offices in the Commonwealth sector.
- A demonstration of greatly increased responsibilities has a much greater chance of recognition in increased remuneration than simply a claim that remuneration in 'comparator offices' has increased.
- Submissions for existing public offices should provide a clear 'then and now' picture for the Tribunal, including in respect to organisational dimensions such as budget, staffing level, assets, geographic footprint, and governance structure.

A submission should cover issues including, where appropriate:

- Changes to relevant legislative provisions affecting the organisation as a whole, and specifically those changes which affect the offices for which the Tribunal determines remuneration.
- Changes to requisite characteristics, skills or qualifications required of the office holder.
- Significant changes to the main functions, responsibilities or accountability structures of the office and the basis for such changes.
- Significant organisational change (e.g. core business, budget, staffing levels, corporate structure and reporting arrangements), in as much as such change affects the duties of the relevant office.
- For full-time offices (including PEOs), particular emphasis in the submission should be placed on changes arising from legislative amendment, substantial changes to government policy, or other circumstances unforeseen at the time of the Tribunal's last review of the office.
- For part-time offices, changes in workload and/or working arrangements (for example, where the hours of work expected of the office have changed significantly).

- In the case of boards and committees, changes to the terms of reference, membership, number of meetings or changes to sub-committee structures.
- Status of the office/s (if vacant, is the level of remuneration a contributing factor to the recruitment of suitable candidates; if occupied, details of the term of appointment).
- Whether changes to part-time office holder payment arrangements are sought and why (for example, submitting that daily fees should be converted to an annual amount or vice versa).
- Comparisons with the remuneration of similar offices, and a recommendation of an increased or revised level of remuneration, daily fee or travel tier.
- Name and contact details of a contact officer who can assist the Tribunal Secretariat with further information or discussion should it be required.

This is not an exhaustive list and any other information directly relevant to the roles and responsibilities of the office or office holder for whom a determination is sought is welcome. However, submissions should be rigorous and relevant while being as concise as practicable.

Establishment of a new public office

Is it within the Tribunal's jurisdiction?

For new public offices, a threshold issue is whether the office sits within (or once established, will sit within) the determinative jurisdiction of the Tribunal. Subsection 3(4) of the RT Act sets out which offices or appointments fall within the Tribunal's jurisdiction.

The most common types of offices within the Tribunal's jurisdiction are offices established by, or appointments made under, a law of the Commonwealth.

However, some of these offices, and certain other types of offices, may sit within the Tribunal's jurisdiction only if they are 'referred in' by the minister responsible for the RT Act.

Offices most commonly referred into the Tribunal's jurisdiction include:

1. non-statutory appointments made by the Governor-General or a minister (usually part-time offices);
2. offices or appointments in the service of, or employed by, a public statutory corporation (even where the office is established by legislation);
3. appointments as directors of incorporated companies whose stock or shares is owned by the Commonwealth; and
4. appointments as directors of Commonwealth-owned incorporated companies limited by guarantee.

For offices sitting within the Tribunal's jurisdiction, no referral action is needed. A submission on remuneration may be provided to the Tribunal.

For offices needing to be referred into the Tribunal's jurisdiction, referral in action will be required in addition to providing a submission on remuneration to the Tribunal. Referral in

action is normally initiated by a request from the responsible minister to the minister responsible for the RT Act.

If unclear about whether the office is within the Tribunal's jurisdiction or you believe referral in action is required, contact the Tribunal Secretariat on (02) 6202 3930.

Content of submissions

Submissions on remuneration for a new public office should include:

- The anticipated date of establishment of the office/s and/or date of appointment of the office holder/s.
- Whether the office/s is a PEO, full or part-time.
- The main functions and nature of the organisation, company or committee (e.g. industry sector, size, budget, corporate structure and reporting structures).
- More particularly, the role and functions of the office holder in that organisation, company or committee.
- For boards and committees, the terms of reference, membership, estimated number of meetings per month or year, sub-committee structures, and anticipated out of session commitments.
- Also for boards and committees, whether there is likely to be a significant start-up workload – that is to say, whether the workload of the office is likely to change once the new body is functioning smoothly.
- Any desirable or essential characteristics, skills or qualifications required of the individual office holders.
- Comparisons with the responsibilities and remuneration of other similar offices. As noted above, the Tribunal has stated frequently that it considers that the most relevant comparators for setting remuneration are other public offices in the Commonwealth public sector.
- A recommendation or assessment of the appropriate level of remuneration and travel tier.
- The name, telephone and email of a contact officer who can assist the Tribunal Secretariat with further information or discussion should it be required.

This is not an exhaustive list and any other information directly relevant to the roles and responsibilities of the office is welcome. Submissions should be rigorous and relevant while being as concise as practicable.

Additional guidance by office category

For full-time offices

The submission should propose a level of total remuneration (TR) consistent with those listed in the Tribunal's full-time office determination.

Note TR is defined in section 8 of the determination, and includes: salary, allowances and lump sum payments; benefits (e.g. a car or parking); and the employer's superannuation contribution.

For part-time offices

In addition to considering the role, responsibilities and functions of the office, the submission should also explain the office's anticipated rate of effort (i.e. the annual commitment required). It should explain why its proposed remuneration model (annual fee, daily fee or a hybrid model), as outlined in the part-time offices [Background on office](#), is being put forward.

For offices comprising boards or advisory bodies, consider the extent to which membership of these bodies could present risks to the office holders – for example, reputational risks that may impact on professional standing.

Board offices may be grouped together for comparison purposes if it makes sense to do so, e.g. considering the offices of board chair and member collectively in comparison with other boards whose equivalent offices have the same relative fees as those being proposed. However, the submission will still need to make a discrete case for the level of remuneration sought for each office (for example, chair, deputy chair and member).

For part-time deputy chairs the following requirements apply:

- Deputy chairs will receive the same fee as Members unless significant additional responsibilities can be demonstrated.
- Submissions seeking a fee for a deputy chair that is higher than the equivalent member fee must clearly set out the role, functions, responsibilities and level of commitment for both the deputy chair and the members to demonstrate how the deputy chair role is distinguishable.
- Where the deputy chair has significant additional responsibilities, the Tribunal will make an assessment as to the amount of fee for the office.
- Similar to the equivalent members, deputy chairs in receipt of annual fees will have access to sub-committee fees, where they are a chair or a member of a sub-committee and there have been fees determined for that sub-committee. Given this, the case for a discrete deputy chair fee should not rely on sub-committee work to distinguish it from the equivalent members.

Where a body has a requirement to have an audit committee, and the office holders are within the Tribunal's jurisdiction, the Tribunal will generally agree to determine fees for the chair and members of that committee, on request.

Note that, for board members, the Tribunal does not routinely set fees for sub-committee work. If it is considered additional fees are warranted for sub-committee work, this will need to be addressed in the submission.

For sub-committees other than audit committees, the submission should comment specifically on why the Tribunal should not consider the functions of the sub-committee to be part of the entity/board's usual functions. The following points should also be addressed in the submission, i.e. whether:

- the sub-committee has formal ongoing governance functions;
- the sub-committee's work represents a key component of the board's governance responsibilities;
- the sub-committee's work has a significant impact on organisational strategy and viability;
- the fee paid to board members is insufficient compensation for the level of responsibility and commitment required of sub-committee members; and
- additional fee arrangements are currently in place, or proposed, for audit committee members.

For PEOs

The submission should be clear and precise in its proposed remuneration. It should propose a Total Remuneration Reference Rate (TRRR); note the PEO Band that TRRR would sit within; and explain whether the normal employing body discretions and incentive pay (also called performance pay) percentage are sought.

If any non-standard parameters are sought, such as a higher level of incentive pay relative to the TRRR and its PEO Band or a variation to employing body discretions, this must be justified.

Further information on arrangements for PEO's is available in the Tribunal's [Guide to the PEO Structure](#).

Postal address

The Tribunal's postal address is:

The President
Remuneration Tribunal
GPO Box 419
Canberra ACT 2601

Note - the Tribunal's preference is to receive submissions in electronic form. Submissions should be sent to: enquiry@remtribunal.gov.au.