

Guidelines for Making a Submission to the Remuneration Tribunal

Who should make submissions?

The Remuneration Tribunal (the Tribunal) prefers to receive submissions from a Portfolio Minister, or a Secretary, Program Manager or Employing Body (in respect of a principal executive office) with responsibility for the relevant office(s). However, it should be noted that the Tribunal will normally seek the views of the relevant portfolio Minister prior to determining remuneration for an office, so that 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.

To whom should submissions be sent?

In general, submissions should be forwarded to:

**The President
Remuneration Tribunal
P.O. Box 281
Civic Square ACT 2608, or**

submissions@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) (currently the Minister Assisting the Prime Minister for the Public Service).

When should submissions be sent?

In the case of a new office, as soon as the relevant information necessary to prepare a complete submission is available. This can be done prior to the formal establishment of an office. The Tribunal can notify 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 make an actual decision once the legal status is resolved.

Where there are amendments to the legislation establishing an office after the Tribunal has advised 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 put in 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.

Note, in relation to multiple offices: where an organisation has full-time public offices (including principal executive offices 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 authority's office holders 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 meets regularly. A submission can be lodged at any time and the Tribunal Secretariat on (02) 6202 3930 can provide an estimate of when a matter may be considered by the Tribunal.

Once a decision is made, the President of the Tribunal will generally write to the relevant Minister and/or the person making the submission. Due to the confidentiality and sensitivities of these decisions, it is generally considered inappropriate to provide separate advice of the outcome to other interested parties; the Tribunal relies on either the relevant Minister or person making the submission to further disseminate this information (as appropriate).

Where the Tribunal's decision results in the need for a determination to be issued, the determination is generally made at the subsequent meeting of the Tribunal (that is, the next meeting after the 'in principle' decision is made), or after the Tribunal has the power to determine the matter (after legislation establishing a new office takes effect, for example). In most cases the determination is tabled in the Parliament and published on the website of the Federal Register of Legislative Instruments. All determinations made by the Tribunal are published on its website.

Is my submission confidential?

The Tribunal is subject to the *Freedom of Information Act 1982*, (the FOI Act). **It should be noted that 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 that Act.**

Detailed information on freedom of information can be found on the website of the Office of the Australian Information Commissioner at http://www.oaic.gov.au/foi-portal/about_foi.html.

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.

Submissions for existing Public Offices

The following information is provided to assist agencies in the preparation of submissions to the Tribunal for a review of the level of remuneration for existing holders of public office.

Content of Submission

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

- 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;
- where comparisons with remuneration elsewhere are provided, the remuneration of other public offices in the Australian Government sector will generally be considered the most relevant;
- a demonstration of greatly increased responsibilities has a much greater chance of recognition in increased remuneration than a claim that remuneration in 'comparator offices' has increased.

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/s;
- significant changes to the main functions, responsibilities or accountability structures of the office/s 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 holder/s;
- for full-time offices (including principal executive offices), 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 holder have changed significantly);
- in the case of boards and committees, changes to the terms of reference, membership, number of meetings per month or year or changes to sub-committee structures;
- status of the office/s (if vacant, is level of remuneration a contributing factor to recruitment of suitable candidates; if occupied, details of the term of appointment);
- name of the office holder(s), details of appointment, including the history of the office holder in the office, where these are not publicly available (but see the final paragraph in this section);
- whether changes to part-time office holder payment arrangements (for example, submitting that daily fees should be converted to an annual amount or vice versa) are sought;
- comparisons with the remuneration of other, similar offices, and a recommendation of an increased or revised level of remuneration, daily fee or travelling allowance. It should be noted that the Tribunal has stated frequently that it considers that the most relevant comparators for setting remuneration are other public offices in the Commonwealth sector;
- 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 holder(s) for whom a determination is sought will be welcomed. However, submissions should be concise and relevant.

Please note that any personal information about current or 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 the office holder or 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 respect of an office where a remuneration increase is being sought on the basis of changed statutory responsibilities.

Establishment of a New Public Office

The following information is provided to assist agencies in the preparation of submissions to the Tribunal seeking a determination of the remuneration for a new public office/s.

Subsection 3(4) of the RT Act sets out which offices or appointments fall within the Tribunal's jurisdiction. Briefly, these can be summarised as:

1. offices established by, or appointments made under, a law of the Commonwealth;
2. appointments made by the Governor-General or a Minister (these are usually part-time offices);

3. offices or appointments in the service of, or employed by, a public statutory corporation; and
4. appointments as Directors of wholly Commonwealth owned corporations limited by guarantee.

Referral of Submissions

For offices as described in points 1, 3 and 4 above, requests for the Tribunal to determine remuneration and allowances should be sent to the address above.

For offices established by the Governor-General or by Ministers, the relevant Portfolio Minister should write to the Minister Assisting the Prime Minister for the Public Service requesting that the latter Minister specify to the Tribunal that it should determine remuneration and allowances for the office or offices. This is in accordance with subsection 3(4)(c) of the RT Act. To obtain a Tribunal decision on remuneration in the shortest possible time, it is most effective to include a submission as an attachment to the request to the Minister Assisting the Prime Minister for the Public Service to refer the office into the Tribunal's jurisdiction.

In relation to some new offices, an agency may be unclear about whether the office is within the Tribunal's jurisdiction and about the correct avenue is for putting in a submission. In these cases, it is advisable to seek the assistance of the Tribunal Secretariat on (02) 6202 3930.

Content of Submissions

Submissions 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 principal executive office, full or part-time;
- details of any relevant legislative provisions including provisions for an Acting or Deputy office holder;
- 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. It should be noted that 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 any allowances such as travel;
- name, telephone, e-mail, and fax number 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 holder/s for whom a determination is sought will be welcomed. However, submissions should be concise and relevant.

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.