



Remuneration Tribunal

Remuneration of Public Offices

Full-Time Offices

Report

Overview

This Report concerns the Tribunal's review of the remuneration of full-time offices; how it approached the review; its findings and its conclusions.

This review follows the Tribunal's review of the economic regulatory agencies, whose determined remuneration appears in the full-time office determination. The results of the Tribunal's 2011 review of those offices stand and remuneration for them has not been considered again as part of this review.

The Full-Time Office Determination

The Tribunal has been determining remuneration for a variety of full-time offices since the Tribunal was established in 1974. The Tribunal's current full-time office determination¹ includes the determined remuneration for 146 offices.

In referring to 'offices', it should be noted that some of these have multiple occupants, so that the number of office holders covered by the determination is greater than the number of offices. The Tribunal determines remuneration in respect of an office rather than for any specific individual – that is to say, the remuneration received by the occupant, whoever that may be, of any office follows from the Tribunal's determination of remuneration for the office. The Tribunal has no role in the process of appointing any individual to an office. That said, the Tribunal will occasionally make provisions for a specific person, normally when the Tribunal is provided with cogent evidence of the necessity of such an approach – for example, where the demonstrably most appropriate person for an office earns more in their current public employment.

Assessing remuneration

It may be useful to provide some information on how the Tribunal, in general terms, determines remuneration for an office.

The Tribunal is required by its Act to "inquire into, and determine"² the remuneration of office holders. The Act also says that in performing its functions "the Tribunal may inform itself in such manner as it thinks fit"³. The Act neither lists all of the factors that the Tribunal shall take into account nor limits those factors. Nor does it specify any particular process the Tribunal should observe.

¹ Determination 2012/12: Remuneration and Allowances for Holders of Full-Time Public Office

² the *Remuneration Tribunal Act 1973* (the RT Act), section 7(3)

³ RT Act, section 11(1)

The assessment of remuneration is not an exact science. While general agreement can be reached about where remuneration for an office should lie relative to that of some other offices, it is difficult to argue that there is a specifically 'right' remuneration figure for each and every office. Indeed the Tribunal accepts that this makes some of the fine differences of remuneration between offices in the current full-time office determination difficult to understand and/or justify. This is a subject covered in more detail later.

When the Tribunal commissioned a consultant, Egan Associates, to assist it in 2011 in its assessment of the work of a backbench member of the Australian Parliament, the Egan Associates Report noted that it had been further assisted by Mercer⁴, whose report said:

The MCED methodology (which is the methodology that Mercer uses) has been widely used in both the public and private sectors in Australia for many years and has broad acceptance as a reliable methodology for determining the relative work value of many different types of jobs ranging from senior executives, management, professionals, administrative and technical and blue-collar occupations.

The MCED job evaluation methodology is a points-factor methodology which analyses the position in terms of three major factors:

- *Expertise – the depth and breadth of knowledge and experience required to perform the role and the interpersonal skills required;*
- *Judgement – the complexity of the job environment and the reasoning or thinking challenges facing the position holder;*
- *Accountability – the results for which the position-holder is accountable – these may be measured in terms of the financial accountabilities or the level of advice provided.*

The Tribunal considers that the three factors mentioned above provide a useful input for assessing full-time offices for remuneration purposes, although the Tribunal does not use points-factor methodologies in making its decisions. Rather, the Tribunal applies its experience to judging a number of factors before deciding an appropriate level of remuneration for an office. Some of the matters to which the Tribunal gives consideration include:

- the management responsibilities of the office (where relevant) – how many staff does the office holder manage; what financial budget do they manage; do they manage one office in one location or many offices in multiple locations?
- the legislative responsibilities – what is the office holder required legislatively to do; about what do they have to make decisions; how complex is the legislation?
- the exposure and risk – to whom is the office holder answerable; is he/she personally liable; what would be the likely outcome if the job was filled by a person of less than optimal capabilities?
- the requisite skills of the office holder (and by inference where they would be likely to be employed if they were not in the office) – does the person have to have specific educational or occupational qualifications; does he/she need to have certain personal qualities including a level of

⁴ Mercer's website describes the company as "the global leader for trusted HR and related finance advice".

expertise or credibility in order to influence others; are such qualifications and qualities common or rare?

- whether filling the office is likely to have a deleterious effect on the office holder's later career path (which has, for example, been claimed to be a risk for those filling regulatory offices);
- the level of remuneration necessary to attract and retain an appropriately qualified and skilled candidate; and
- the level of remuneration that the Tribunal has set for other offices with similar levels of responsibility and accountability.

As it has noted previously, for example in its submission of 21 July 2009 to the Productivity Commission's Inquiry into Executive Remuneration⁵, the Tribunal is very conscious of the prestige, honour, power and influence attached to certain very senior positions, and believes that the remuneration arrangements for the appointees to such positions should accept and reflect this. Indeed, public sector administration relies on men and women of capacity being prepared to accept appointment to offices at rates of remuneration which are clearly less than sometimes similar positions (be they full-time or part-time) in the private sector. For these reasons, adoption of private sector remuneration practices, and direct comparison with remuneration for the most senior executives in the private sector, have limited relevance to the Tribunal's consideration of remuneration for public offices in its jurisdiction. Nonetheless, the Tribunal must be conscious of movements in private sector remuneration, and seek to ensure that public offices are sufficiently rewarded to attract and retain candidates of the highest calibre.

Having investigated these matters, the Tribunal then applies its experience to judging the various relevant factors and as noted earlier, rather than ascribing a points value to an office, decides directly on an appropriate level of remuneration.

How is remuneration adjusted after the initial determination?

Each year, as it is required to do by its establishing Act⁶, the Tribunal reconsiders the remuneration of each office in its jurisdiction. As a general rule, the Tribunal takes into account factors that it considers affect all office holders and applies the same percentage adjustment to the remuneration of each office.

In its 2005-06 Annual Report the Tribunal listed some of the factors that it took into consideration in determining annual adjustments:

Statistical indicators, such as movements in the labour price index; increases incorporated in Australian Public Service and public sector certified agreements; and increases in agreements generally, provide some guidance.

Movements in senior management remuneration are also relevant, given the nature of many of the offices in the Tribunal's jurisdiction. The Tribunal is not, however, overly influenced by executive remuneration surveys. Although justifiable comparisons can be drawn between senior private and federal public sector jobs, the Tribunal, while mindful of movements indicated by such surveys, regards private sector remuneration practice as being only one of the factors to be taken into account in setting the remuneration of public offices. The prestige

⁵<http://www.remtribunal.gov.au/statementsreports/Submission%20to%20Productivity%20Commission%20on%20Executive%20Remuneration%2021.7.2009.pdf>

⁶ Section 8(1) of the RT Act

associated with appointment to a high public office entails acceptance, on the part of appointees, of less remuneration than might apply to a comparable job in the private sector.

These comments remain relevant in 2012, while noting that the Tribunal's legislation now also requires the Tribunal to have regard to minimum wage decisions of Fair Work Australia (FWA). In this context, it is the Tribunal's understanding that 'have regard to' does not mean 'adopt', but rather means that the FWA decisions are one relevant factor that the Tribunal must consider.

As noted, the Tribunal gains useful guidance from increases in Australian Public Service (APS) agreements. It should be noted that the increases to remuneration incorporated in public sector agreements are reliant, under the APS Bargaining Framework, on demonstrated productivity increases in the relevant agencies⁷. The Tribunal's use of this statistical indicator as a factor in determining increases for office holders points to the fact that the Tribunal is also compensating office holders for productivity increases in determining an annual adjustment.

Put another way, Tribunal annual increases are not, as they are sometimes reported, CPI (Consumer Price Index) adjustments, although that figure is also noted, but rather are increases which take into account general financial circumstances as well as the normal development in complexity and productivity in offices across the workforce, and particularly the public sector workforce, and which are relevant to full-time offices.

The 2005-06 Annual Report also noted that:

...developments in public administration can bring about significant changes in the roles and responsibilities of public offices. In respect of an individual office, legislative and other developments may have had an effect such as to justify some adjustment in remuneration.

Roles in the public sector certainly change over time. Remarkably, of the approximately 100 offices listed in the first Tribunal determination in relation to full-time offices in 1974, only four still appear in the 2012 determination (some few others are now recognised as Specified Statutory Offices (SSO) or Principal Executive Offices). The corollary of this is that 142 of the 146 offices in the current determination have been created, or redesigned, since that time.

This has occurred over the several decades noted, not at any one time, and there is no reason to think that this level of change in the public sector is abnormal. For the Remuneration Tribunal, this means that a thorough review of relativities and remuneration arrangements for various offices is not only desirable but essential from time to time.

Where the Tribunal has become aware, through written submissions or its own monitoring of the government's legislative agenda, that the workload or responsibilities of a particular office has changed markedly, it will further focus on that particular office. Where no submission has been made, the Tribunal would normally invite a submission from the relevant Minister. If the Tribunal decides that the changes to the role of the office should be recognised in an

⁷ <http://www.apsc.gov.au/publications-and-media/current-publications/aps-public-service-bargaining-framework>, Part 2

adjustment to the office's remuneration, the Tribunal may determine that adjustment at a different time to the annual adjustment.

Some factors that the Tribunal takes into account in determining whether the responsibilities of an office have changed sufficiently to warrant a remuneration adjustment particular to that office, and separate from or in addition to the general annual adjustment, include:

- 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; and/or
- 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.

As indicated earlier, the Tribunal's annual adjustment goes some way towards compensating public offices for general increases in responsibility by examining the issues that relate to the remuneration of public offices annually. The Tribunal also examines issues relating to specific offices as brought to the Tribunal's attention when those offices are created or when their roles and responsibilities are substantially upgraded or downgraded.

A wholesale comparative study of the remuneration of the various offices from time to time is also essential to maintain the integrity of the Tribunal's determinations. This is not a process undertaken frequently, but is a valuable process that should be undertaken when the opportunity arises, as it has at present, following on from other significant Tribunal reviews – most notably of the economic regulatory agencies, Secretaries and the SSOs.

The need for simplified remuneration arrangements

Since its establishment in 1974, the Tribunal has determined remuneration for various full-time offices. The Tribunal's report accompanying its first determinations in that year noted that it had determined pay for "more than 175 full-time holders... of statutory offices". It is worthy of note in the context of this Report that the Tribunal at that time "broadbanded", in its words, the salaries of these offices at 20 levels, noting that previously existing disparities (prior to remuneration being set by the Tribunal) of, in one case, \$31 per annum were "unnecessary"⁸, and indeed possibly hard to explain.

Since that time, unnecessarily fine differences between the remuneration of offices in its jurisdiction have again emerged.

For over 25 years after the Tribunal's broadbanding of remuneration in 1974, its determinations in respect of such full-time offices as existed from time to time determined a salary figure only. Other emoluments, such as access to a private car, parking and the provision of spouse travel, among other things, were provided separately. The superannuation benefits which accrued to the office holder were also not costed in the remuneration package.

⁸ Remuneration Tribunal Reports and Determinations July 1974, page 32

In 2002 the Tribunal moved the determination of remuneration for full-time offices from a salary to a Total Remuneration (TR) approach. The other emoluments, mentioned above, were costed and determined as part of the office holder's TR package. From the time of the change to a TR approach, the Tribunal's determination has been intended to be a comprehensive summary of the remuneration, broadly defined, paid to the holder or holders of the relevant office⁹.

When the Tribunal first determined TR, it did so on a no disadvantage, and indeed a no advantage, basis. The Tribunal made an assessment of the equivalent dollar value of the various benefits available to individual offices at a point in time, and incorporated that figure along with salary to form the TR of the office. While this was an accurate reflection of the status quo, it had the effect of significantly fragmenting levels of remuneration in the determination. It also changed relativities that the Tribunal had previously determined (for example, offices which had had the same determined salary level ended up with different TR figures because of differing benefits being accorded the office).

It should be noted that the other emoluments were not, in those days, provided by the Tribunal. Generally they were benefits that were provided by the agency in which the office sat or by its Minister. Thus, when the Tribunal accepted the current benefits as TR figures, it was accepting figures that it had not itself set. This has not been addressed comprehensively until the current review.

Since the Tribunal's establishment, the public sector has evolved: many offices have been abolished or restructured, thus disappearing from the Tribunal's jurisdiction, with new offices being created with new remuneration determined for them by the Tribunal. Each time a new office has been created, the Tribunal has assessed and determined a salary or TR for that office, either within the existing framework or by determining a new figure.

With the fragmentation of TR levels in the determination the Tribunal has become wary, in determining remuneration for a new office, of aligning it exactly to already determined levels of remuneration. In a determination with so many different levels of remuneration, setting remuneration at exactly the same level as another office may give the impression, contrary to the Tribunal's intention, that a nexus had been established between those two offices. It may be stating the obvious to say that grouping of the remuneration of offices is only useful when there are actual groups – a 'group' of two can give rise to unintended inferences or perceptions.

The assessment of new offices, and the assessment of TR for existing offices in 2002 at actual rates, has meant that the number of remuneration figures in the determination has increased. These factors have meant that for the 146 offices in the determination there are now no less than 111 different TR figures, some varying by as little as \$20 per annum.

Such variations (a \$20 variation amounts to about one twentieth of 1%) can only be explained by pointing to the history of remuneration for the offices. They are, in the terms used by the Tribunal in 1974, unnecessary. There is no current practical reason relating to job value to continue to support such miniscule differentials.

⁹ There can be some variation between the determined and actual TR for members of defined benefit superannuation schemes. This issue is discussed in the Tribunal's Review of Secretaries

Consequently, part of the Tribunal's review of these offices has involved a consideration of consolidating the remuneration figures in its determination in a series of groupings. This does not mean that the Tribunal considers that the roles and responsibilities of these offices are identical – it does however mean that the offices are, in the Tribunal's view, rated as sufficiently proximate that minor variations in their remuneration can no longer be sensibly supported.

It can be argued that such an approach will also make it easier to set remuneration for new offices in future by placing them in an appropriate grouping, rather than finding a perhaps artificial remuneration differentiation from a series of existing offices.

How the review was conducted

In his Overview to the 2010-11 Annual Report the President of the Tribunal noted that the Tribunal had reviewed the remuneration of a number of groups of offices including offices in the economic regulatory agencies – the Australian Prudential Regulatory Agency (APRA), the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC). These are all offices that appear in the full-time office determination.

The President commented that:

Our review of APRA, ASIC and ACCC concluded that substantial adjustments in remuneration were appropriate.

He went on to say that:

The Tribunal notes again that its generally conservative approach has not been followed by those with responsibility for the remuneration of the most senior employees of the Australian Public Service (APS), the Senior Executive Service (SES). The Tribunal has written previously that, as a consequence of this, the remuneration of federal public offices for which the Tribunal determines remuneration has fallen significantly relative to those senior APS employees, in particular... The diversity and scope of the public offices within the Tribunal's jurisdiction is evident from the Tribunal's determinations – I refer particularly to our setting the remuneration for full-time and part-time public offices (presently Determinations 2011/08 and 2011/09). The Tribunal intends to review these offices both as to the quantum and the complexity of the present arrangements.

The Tribunal also said in its Statement following the 2011 annual review, and reiterated in its 2012 annual review statement:

The Tribunal has commented previously on the scale and complexity of the responsibilities of senior public offices. The Tribunal regards it as important that their remuneration should be commensurate with their responsibilities.

Increasingly, however, it is not. Much of the Tribunal's recent work has been directed towards addressing this.

and:

The Tribunal's expectation is that its current reviews will address longstanding inequities and inconsistencies in the remuneration of public offices; assist in ensuring a closer alignment between remuneration and responsibilities; and lead to simplified remuneration arrangements in Tribunal determinations.

The Tribunal commenced its review of full-time offices (other than the economic regulatory agencies) in 2011. Owing to the large and increasing number of full-time offices, this has proven to be a complex and demanding process.

The President's Overview in the 2010-11 Annual Report implied that increases to remuneration for office holders were likely. However, the review was commenced with a view to confirming that offices were remunerated appropriately for the roles they performed, and with a view to establishing that the instrument that set remuneration – the Tribunal's determination – was structured in such a way as to make the relative remuneration of the various public offices clearly set out and logical.

The review commenced by giving general consideration to whether the remuneration of offices remained at an appropriate level, to whether any arrangements stood out as anomalous in comparison with those of other offices, and to whether the various levels of differing remuneration could continue to be justified.

Obviously, the Tribunal has made an initial determination of remuneration for each of the 146 full-time offices at some point in the past. There have also been adjustments, other than annual reviews, to many of the offices in response to particular submissions regarding changed circumstances. As an indication of this, the Tribunal has given detailed consideration to close to 50% of the offices in its full-time jurisdiction during the past five years.

Further, it is the case that the offices for which the Tribunal determines remuneration are *public* offices. This means that a large amount of information about the role of the office and the responsibilities of the incumbent is available publicly.

The Tribunal utilises a variety of sources to garner information about an office. For example establishing legislation may set out lines of responsibility and lines of control, among other things. Annual Reports set out how the organisation is performing, its current financial and staffing parameters, and may point to significant changes or challenges affecting an office holder or holders. Portfolio Budget Statements inform the Tribunal regarding financial allocations to various agencies and programs, indicating, among other things, the size of an office holder's job and whether this is increasing or decreasing. Of course, where appropriate, the Tribunal also meets with various agency heads and office holders, and receives submissions.

The Tribunal's review led it to posit a new remuneration framework by establishing a series of guideline offices. The Tribunal explained this in its Annual Review Statement of 22 June 2012 (the Statement)¹⁰ and published a list of the draft guideline offices as an attachment to that Statement.

In the Statement the Tribunal said that:

The accompanying proposed remuneration framework and the indicative allocation of offices within it reflect the Tribunal's preliminary views. The Tribunal does not regard either the rates shown or the allocation of offices as in any way final.

¹⁰ <http://www.remtribunal.gov.au/statementsreports/2012/2012%20Annual%20Review%20Statement%20-%2022%20June%202012.pdf>

The Tribunal went on to say that:

The Tribunal seeks and will give consideration to any submissions that it may receive. However, the Tribunal reiterates its previous remarks about the inadequacies of the present determination of remuneration for full-time public offices and its intention to address the matters of concern to it.

That proposed framework, which was included in the 22 June 2012 Statement, was:

Proposed Remuneration Framework	
Ultimate Total Remuneration (after transitional arrangements where appropriate)	Indicative Office Allocation
\$600,000	AFP Commissioner
\$550,000	Director General, ASIO
\$500,000	Vice-Chief of Defence Force Chief of Navy Chief of Army Chief of Air Force Director of Public Prosecutions Australian Electoral Commissioner
\$450,000	Director, Office of National Assessments CEO, Australian Crime Commission Director, Bureau of Meteorology CEO, Austrac Chief Scientist Director General, AusAID
\$400,000	Information Commissioner Commonwealth Ombudsman Chief Commissioner, Australian Transport Safety Bureau CEO, Murray Darling Basin Authority
\$375,000	CEO, Health Workforce Australia CEO, Comsuper CEO, Safe Work Australia CEO, Australian Fisheries Management Authority

\$350,000	CEO, Climate Change Authority Director, Australian Institute of Criminology CEO, Insolvency and Trustee Service CEO, Australian Radiation Protection & Nuclear Safety Agency CEO, Australian Pesticides & Veterinary Medicines Authority FOI Commissioner Privacy Commissioner Director-General, National Archives of Australia CEO, CrimTrac Agency
\$325,000	CEO, National Transport Commission CEO, Australian National Preventive Health Agency Infrastructure Coordinator
\$300,000	Aged Care Commissioner Age Discrimination Commissioner Sex Discrimination Commissioner Race Discrimination Commissioner Human Rights Commissioner Disability Discrimination Commissioner Aboriginal & Torres Strait Islander Social Justice Commissioner
\$275,000	Gene Technology Regulator General Manager, Aboriginal Hostels Director-General, Australian Safeguards and Non-Proliferation Office Private Health Insurance Ombudsman Director Classification Board
\$250,000	Executive Director of Township Leasing

Since the issue of the Statement, the Tribunal has continued to research and gather information to enhance further the Tribunal's knowledge of each office.

The Tribunal has also taken into account comments and information that have been received following the publication of its Statement and the request for submissions. The Tribunal's normal business, in examining the remuneration of a number of new offices, and offices subject to legislative or other significant change, has also continued throughout the review.

The Tribunal has had the benefit of several meetings with office holders who are regarded as holding, or are responsible for, guideline offices. As the Tribunal has noted in successive Annual Reports, such meetings are invaluable to the Tribunal for providing insights, that are not easily obtainable otherwise, into the exigencies of holding a public office.

The Tribunal has also discussed the review with senior officials in various agencies and the Minister with responsibility for the administration of the *Remuneration Tribunal Act 1973*, the Hon Gary Gray AO MP.

While the Tribunal appreciates all such submissions, meetings, discussions and comments, the decisions in this Report are the decisions of the Tribunal alone.

The decisions taken by the Tribunal

As stated earlier in this Report the Tribunal's legislated role is to "inquire into and determine" the remuneration for various offices.

A decision of the Tribunal only has effect when it is included in a determination, which is a legislative instrument registered on the Federal Register of Legislative Instruments and tabled in each House of Parliament. The decisions mentioned in this Report will take effect formally on the date of effect of the relevant determination.

The Structure

The Tribunal has decided that gradations of remuneration of less than \$25,000, and less than \$50,000 at levels above \$550,000, cannot be supported sensibly. The Tribunal's rationale for this is that if a case cannot be made for separating the remuneration of one full-time office from that of another full-time office by more than a minimum of 5%, then there is simply no real case for separating their remuneration at all. Finer gradations involve a degree of specificity which is difficult to substantiate.

This is not uncommon practice in the public sector. For instance, in APS Agency Agreements jobs are graded at different levels. In almost 90% of all levels in all the Agency Agreements, the lowest remuneration point for each level varies by a minimum of 10%: the average gap is 13.3%.

To set this structure in place initially the Tribunal has used whole \$'000 figures - \$400,000, \$325,000 etc. This has made the structure easier to understand and use in the first instance, but the Tribunal recognises that this nicety is unlikely to last beyond the next general pay adjustment. Nonetheless, the broadbands will have been set and the percentage variations between the levels will survive any general percentage increase.

In the majority of cases the offices in the old structure have been incorporated into the new structure by placing them at either the next pay point above their current TR or the pay point above that. While this involves a pay increase for a large number of offices, these increases compensate at least in part for an issue that has been brought up in a number of Tribunal Annual Reports – the relatively lower adjustment in the remuneration of office holders in the Tribunal's jurisdiction over many years compared to adjustments in the remuneration of SES employees in the APS.

The SES pay issue has, for instance, been canvassed in the 2008-09, 2009-10, and 2010-11 Annual Reports, as well as previously and in other statements, such as the Tribunal's statements following its 2009 remuneration review¹¹.

SES employees are frequently the direct reports of the offices for which the Tribunal determines remuneration. The increases in SES pay relative to office holder pay have resulted in the collapsing of pay differentials in many agencies. The Tribunal set out its general views on the differential between Secretaries of Departments and their direct reports in its December 2011 Report on its Review of the Office of Secretary, Part II¹². While the specific differentials included in

¹¹ <http://www.remtribunal.gov.au/determinationsReports/byYear/2009/2009%20Statement%20for%20Annual%20review%20-%2019%20May%202009.pdf>

¹² <http://www.remtribunal.gov.au/statementsreports/RT%20Secretaries%20Report%20-%2015.12.2011.pdf>

that Report as applying to Secretaries may not necessarily apply to all agency heads within the Tribunal's jurisdiction, the principle, that there is a significant gap in responsibility between a public office carrying the responsibilities of agency head, and any deputy or deputies, is clear. The Tribunal has been very conscious of this distinction in its deliberations.

Specific offices

Increases that are above the level necessary to place them in the new structure have resulted from a review of the office's functions, as a result of which the Tribunal has been convinced that a realignment of the remuneration for a number of offices has been justified.

As set out in the table of offices in its 22 June 2012 Statement, the Tribunal intends to determine significant increases for the heads of Defence, legal and security agencies, to reflect the increasing level of responsibility that each office holds. It is noted first that the Tribunal's previous review of SSOs¹³ increased remuneration for related offices such as the Chief of the Defence Force (CDF) and Chief Executive Office (CEO) of the Australian Customs and Border Protection Service. In its Report the Tribunal noted, in relation to the Customs and Border Protection office, that:

The CEO is responsible for the effective management of the Australian Customs and Border Protection Service. It has over 5000 staff engaged in its functions in offices around Australia and overseas. Once confined to the customs function, the addition of its border protection responsibilities has extended its role significantly. This expanded focus is intended to meet the complex border security challenges of the future by providing unified control and direction and a single point of accountability.

The Tribunal's conclusion was that a pay rise for the CEO was justified. The Tribunal considers that similar arguments apply to the Commissioner of the Australian Federal Police (AFP). This is a significant and singular office, with close to 7000 staff and a budget of over \$2 billion, responsible for a breadth of roles, including international deployments, not encompassed by State Police Commissioner roles.

While the AFP office is described above as singular, the Commissioner is the leader of one of a group of agencies that operate in the security sector, and that have responsibilities in similar areas such as the prevention of terrorism and the protection of the Australian people and state. It is unrealistic to expect the role of the AFP Commissioner to have grown while the roles of the leaders of other security agencies such as the Australian Security Intelligence Organisation (ASIO) and the Office of National Assessments (ONA) have remained static. The Tribunal does not accept that this is the case – all of these offices have experienced significant growth in recent years and the remuneration of each has been reset to reflect the current levels of responsibility and accountability.

Similarly, in its Review of SSOs, the Tribunal increased the remuneration of the CDF. This was justifiable on the grounds of work value, but was supported also by the Tribunal's review of Departmental Secretaries – in particular, because of the diarchy in Defence where leadership is carried by the CDF and the Secretary of the Department.

¹³ Report at: <http://www.remtribunal.gov.au/statementsreports/SSO%20Report%2015.12.2011.pdf>

The Tribunal has also decided to increase the remuneration payable to the four office holders immediately below the CDF in the Defence hierarchy – that is, the Vice Chief of the Defence Force (VCDF) and the three Service Chiefs, being the Chiefs of Navy, Army and Air Force. These increases have restored the relativity of their remuneration to that of the CDF. Each of these highly qualified individuals fulfils a vital role in the Australian Defence structure. The Service Chiefs each have responsibility for large numbers of members - up to 50,000 – and equivalent budgets. Their roles encompass logistical management on a national and international scale including fulfilling obligations with significant impact on Australia's foreign relations. The personal security of staff is a feature of the management responsibilities in these roles.

The Tribunal considers it appropriate to recognise the unique role of the VCDF, in standing in constant readiness to act as CDF, by determining remuneration for this office at a higher level than the Chiefs of each Service. Notwithstanding that each office holds the rank of 3-Star General, the Tribunal considers a differentiation between these offices is warranted. The Tribunal views these offices as of particular distinction. In deciding on remuneration for the Service Chiefs, close to 67% of the remuneration of the CDF, and for the VCDF of 70%, the Tribunal has been conscious that it is departing from its general view, expressed in its Part II Report on the Office of Secretary, that the remuneration for a deputy should not exceed 60% of the agency head. These offices have responsibilities that cannot be equated to other Defence Force members of similar rank, and which warrant remuneration well above the levels payable to the most senior SES employees in the civilian Department of Defence. The Tribunal intends no flow-on from the changes in remuneration for these four offices to any of the SES employees in the Department.

Some other offices whose holders are the heads of executive agencies – specifically the Bureau of Meteorology and Insolvency and Trustee Service Australia - have had their remuneration increased. The changes to the *Public Service Act 1999* which put Departmental Secretaries into the Tribunal's jurisdiction also put executive agency heads into its jurisdiction. While these offices were formerly in the Tribunal's advisory jurisdiction, the change into the determinative jurisdiction has caused the Tribunal to examine these offices more closely. Taking into account the specialist (scientific/financial) management and customer service responsibilities of both roles, the Tribunal has placed them at what it considers to be the appropriate point in the new structure.

There is also a small number of offices which have been left at their current remuneration level. These are offices whose remuneration the Tribunal is still considering. While no firm decision on them has yet been taken, it has been the Tribunal's preference that the new structure should encompass all offices and that there should be few, if any, 'outliers'. In the event, a small number of offices, whose remuneration is scheduled for more comprehensive review over the coming year, have not been moved into the new structure at this stage.

Offices subject to further review by the Tribunal prior to any adjustment

CEO, National Mental Health Commission
Parliamentary Budget Officer
All offices, Australian Skills Quality Authority
All offices, Tertiary Education Quality & Standards Agency
Executive Director, Australian Solar Institute
Director, Fair Work Building Industry Inspectorate
All offices, Social Security Appeals Tribunal
Deputy Chair and Commissioners, Productivity Commission
CEO, Comcare

In this context it should be noted that at any particular time the Tribunal will not have complete and up-to-date information about every office in its jurisdiction. Submissions in relation to the changes in work value that arise from legislative or other significant organisational changes can be made at any time and are considered as they are received. Thus remuneration determined in association with this report will continue to be modified as new information becomes available.

When will any increases occur?

Where the Tribunal has placed an office at what it considers an appropriate place in the new structure, without the Tribunal having taken a view that the office's responsibilities have changed markedly, any change to remuneration will be once off with a single date of effect specified in the determination.

Remuneration for some other offices, particularly at a higher level, will be adjusted in increments over a transitional period. The Tribunal has already adopted this approach for Departmental Secretaries and SSOs.

The offices affected and the timeframes and levels of remuneration are set out in the Table below:

Offices	Phased implementation			
	1/1/2013	1/7/2013	1/1/2014	1/7/2014
Commissioner, Australian Federal Police	\$550,000	\$590,000	\$620,000	\$650,000
<i>Base salary</i>	\$385,000	\$413,000	\$434,000	\$455,000
Director-General of Security, ASIO	\$500,000	\$540,000	\$580,000	\$600,000
<i>Base salary</i>	\$350,000	\$378,000	\$406,000	\$420,000
Vice-Chief of Defence Force	\$460,000	\$500,000	\$525,000	\$550,000
<i>Base salary</i>	\$322,000	\$350,000	\$367,500	\$385,000
Chief of Navy, Army, Air Force	\$440,000	\$480,000	\$500,000	\$525,000
<i>Base salary</i>	\$308,000	\$336,000	\$350,000	\$367,500
Director-General, Office of National Assessments	\$450,000	\$480,000	\$500,000	\$525,000
<i>Base salary</i>	\$315,000	\$336,000	\$350,000	\$367,500
Australian Electoral Commissioner	\$400,000	\$435,000	\$475,000	\$500,000
<i>Base salary</i>	\$280,000	\$304,500	\$332,500	\$350,000
Chief Executive, Insolvency & Trustee Service Australia	\$370,000	\$400,000	\$425,000	\$450,000
<i>Base salary</i>	\$266,400	\$284,000	\$297,500	\$315,000

The offices subject to determination of increased remuneration to be included in the new structure are as follows:

Remuneration Tribunal – Full-Time Offices Remuneration Framework	
Ultimate Total Remuneration <small>(after transitional arrangements where appropriate)</small>	Office
\$650,000	Commissioner, Australian Federal Police
\$600,000	Australian Public Service Commissioner Director General of Security, Australian Security Intelligence Organisation
\$550,000	Vice-Chief of Defence Force
\$525,000	Chief of Navy Chief of Army Chief of Air Force Director-General, Office of National Assessments
\$500,000	Director of Public Prosecutions Australian Electoral Commissioner
\$475,000	Chair/CEO, Clean Energy Regulator Director-General, AusAID CEO, Australian Crime Commission
\$450,000	Director, Bureau of Meteorology CEO, Australian Transaction Reports & Analysis Centre Chief Scientist Chief Executive, Insolvency and Trustee Service Australia
\$425,000	CEO, Independent Hospitals Pricing Authority Deputy President, Fair Work Australia Examiner, Australian Crime Commission Integrity Commissioner, Australian Commission for Law Enforcement Integrity Information Commissioner Commonwealth Ombudsman Inspector-General of Intelligence & Security
\$400,000	Chief Commissioner, Australian Transport Safety Bureau Chief Executive, Murray Darling Basin Authority President, Australian Human Rights Commission Chair, Tax Practitioners' Board Inspector-General of Taxation Fair Work Ombudsman CEO, Australian Commission for Safety & Quality in Health Care

<p>\$375,000</p>	<p>CEO, Health Workforce Australia CEO, Comsuper CEO, Safe Work Australia Coordinator-General for Remote Indigenous Services Principal Member, Migration Review Tribunal Principal Member, Refugee Review Tribunal General Manager, Fair Work Australia CEO, Australian Fisheries Management Authority</p>
<p>\$350,000</p>	<p>CEO, Climate Change Authority Director, Australian Institute of Criminology CEO, Australian Radiation Protection & Nuclear Safety Agency CEO, Australian Pesticides & Veterinary Medicines Authority Freedom of Information Commissioner Privacy Commissioner Director-General, National Archives of Australia CEO, CrimTrac Agency Commissioner, Fair Work Australia CEO, Australian Organ & Tissue Donation Authority Deputy Chair, Australian Communications & Media Authority Associate Director of Public Prosecutions Director of Military Prosecutions Inspector-General of the Australian Defence Force Chair, Commonwealth Grants Commission Director, Professional Services Review</p>
<p>\$325,000</p>	<p>CEO, National Water Commission CEO, National Transport Commission CEO, Australian National Preventive Health Agency Infrastructure Coordinator Director, Old Parliament House Member, Australian Communications & Media Authority Member, Australian Energy Regulator Chair, Pharmaceutical Benefits Advisory Committee Registrar, Administrative Appeals Tribunal CEO, Australian Sports Anti-Doping Authority Official Secretary to the Governor-General Aged Care Commissioner Age Discrimination Commissioner Sex Discrimination Commissioner Race Discrimination Commissioner Human Rights Commissioner Disability Discrimination Commissioner Aboriginal & Torres Strait Islander Social Justice Commissioner National Children's Commissioner</p>

\$300,000	Administrator of the Northern Territory Chief Executive, National Capital Authority Principal Member, Veteran's Review Board Gene Technology Regulator CEO, Aboriginal Hostels Limited Merit Protection Commissioner Deputy Principal Member, Migration Review Tribunal Deputy Principal Member, Refugee Review Tribunal
\$275,000	Director-General, Australian Safeguards & Non-Proliferation Office Private Health Insurance Ombudsman Director, Classification Board Registrar of Aboriginal & Torres Strait Islander Corporations Member, Tax Practitioners Board Deputy Commonwealth Ombudsman Chair, Superannuation Complaints Tribunal Administrator, Christmas & Cocos (Keeling) Islands Chair, Torres Strait Regional Authority Administrator, Torres Strait Regional Authority
\$250,000	Executive Director of Township Leasing
\$225,000	Deputy Chair, Superannuation Complaints Tribunal Senior Member, Migration Review Tribunal Senior Member, Refugee Review Tribunal Senior Member, Veterans' Review Board Deputy Director, Classification Board
\$200,000	Administrator, Norfolk Island Member, Migration Review Tribunal Member, Refugee Review Tribunal Chairman, Central Land Council Chairman, Northern Land Council
\$175,000	Chair, Anindilyakwa, Land Council Senior Classifier, Classification Board
\$150,000	Commonwealth Financial Officer, Norfolk Island
\$125,000	Classifier, Classification Board

Superannuation

For a number of years the Tribunal has had a view that Base Salary (superannuation salary for members of Commonwealth defined benefits schemes) should be set at a standard percentage of TR. This has not been the case in relation to full-time offices. As stated earlier in this Report, offices then in existence were transferred in 2002 to TR at the contemporaneous level of calculated benefits, with their previously determined salary remaining as their Base Salary. This meant that there was no standard ratio of Base Salary to TR, although most of the salaries for superannuation purposes fell in a range of approximately 65 to 75% of TR. It was also the case that the rules of the Commonwealth defined benefit superannuation funds in particular obviated the chance to set a standard superannuation rate as generally those rules have salary maintenance provisions – which meant, for example, that any attempt by the Tribunal to change the superannuation salary of an office holder to a standard level would have been in breach of the fund rules and therefore impossible.

In recent years the Tribunal has applied a standard percentage when it determines remuneration for a new office. When superannuation fund rules require a superannuation salary higher than the standard rate for an individual office holder, a personal Base Salary is determined.

With the introduction of the new remuneration arrangements, as outlined in this Report, the Tribunal has decided to set Base Salary for most offices with a TR of \$400,000 and above at 70%.

The rationale for setting a Base Salary at a set level of 70% of TR is that the increases to remuneration for offices at \$400,000 and above will be paid now, while the office holder is in the job, without having a significant effect in relation to future Commonwealth superannuation liabilities. This is consistent with the Tribunal's analysis of the benefit of participation in the various Commonwealth superannuation schemes contained in Part I of the Report on the Office of Secretary¹⁴. Part II of that Report noted that limiting salary for superannuation purposes as a percentage of TR is an established approach to ensure that superannuation does not form a disproportionate component of the remuneration of an office. The Tribunal, in that Report, expressed its view that:

"...office holders should be remunerated appropriately today for undertaking the responsibilities of their respective offices, rather than tomorrow, through their superannuation benefit."

The Tribunal also considered that the long term cost to Government in relation to the defined benefit schemes should be taken into account in the application of the new framework for remuneration of Departmental Secretaries, and decided to set the Base Salary of Secretaries at 70% of the TR for members of those schemes. The decision on superannuation outlined in this Report is consistent with that decision.

At the same time, the Tribunal aims to move towards standardising the Base Salary for offices below \$400,000 TR at 73%. This level is common, and has been used by the Tribunal as the standard for many years, based on a

¹⁴ Both reports are available at

<http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=on>

calculation of the cash benefit of a TR package with employer superannuation, vehicle and parking as non-cash benefits. Noting that many of the adjustments to move offices into the new structure at these levels are very modest, the ultimate adjustment to 73% of TR may take some years to achieve. However the Tribunal intends to continue these adjustments with each annual review, or any other TR adjustment to the office, until there is consistency. Offices with a Base Salary below 73% of TR will have those amounts adjusted now.

There will be an exception for a number of offices at the lower levels of remuneration in the new structure. These offices, such as certain offices in the Classification Board, are of a different nature to most offices in the determination. They are, rather, more like employees in the APS below SES level – their remuneration has always been based on Base Salary and superannuation without other benefits, so that the 73% rate for those offices would understate their actual circumstances. Those offices will have Base Salary set at 86% of TR.