

REVIEW OF QCAT MEMBERS' REMUNERATION

**QUEENSLAND DEPARTMENT OF JUSTICE
AND ATTORNEY-GENERAL**

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1

Introduction

The Queensland Civil and Administrative Tribunal (QCAT), which replaced a number of tribunal-related functions across a number of agencies, commenced operations on 1 December, 2009 and its jurisdiction currently extends to one hundred and fifty nine Acts of Parliament. As part of the implementation of QCAT, Mercer Consulting (Australia) Pty Ltd (Mercer) was engaged by the Department of Justice and Attorney-General to provide advice related to remuneration for Members. In January, 2009, Mercer completed a work value-based benchmarking exercise, examined remuneration and benefits data applied to similar roles in other jurisdictions and made salary and benefits recommendations related to the proposed Member roles within the context of the new tribunal.

At the time, three different Member roles (Senior Member (Head of Division), Senior Member (Head of List) and Ordinary Member) were proposed and Mercer assessed work value benchmarks on the basis of those roles as it was anticipated they would operate when QCAT commenced.

The Department has now sought Mercer's assistance to update the earlier benchmarking exercise. In doing so, the Department has drawn attention to the fact that the earlier, proposed role categories were replaced with Senior Member, Member, and Adjudicator. In broad terms, the Senior Member role replaced the Senior Member (Head of Division). The Senior Member (Head of List) role was not implemented in the form originally intended, and the accountability for management of individual lists was absorbed into the generic Senior Member role. In some cases less complex lists have been managed at the Ordinary Member level. The Adjudicator role was created as a more practical approach to the expected workload in the Minor Civil Disputes jurisdiction.

The Department has also requested that benchmarking related to benefits and conditions of engagement should be limited to the identification of any changes in these elements which may have occurred across other jurisdictions since 2008.

As a result of Mercer's 2009 review, the following base salaries for the three roles were recommended as follows:

- Senior Member (Head of Division): \$220,000.
- Senior Member (Head of List): \$195,000.
- Ordinary Member: \$165,000.

Mercer understands that at implementation, the following actual base salary levels were set:

- Senior Member (Head of Division): \$210,000.
- Ordinary Member: \$165,000.
- Adjudicator: \$102,500.

In addition to base salary, the total remuneration for each role included the Government superannuation contribution (12.75%), leave loading and, in the case of Senior Members, a motor vehicle (or allowance in lieu) valued at \$25,500.

It was agreed that the scope of this review would specifically include:

1. A process to identify how roles may have evolved and changed subsequent to what was proposed in 2008.
2. Determination of work values that apply to the roles.
3. Research in relation to existing tribunal remuneration levels, remuneration for equivalent roles in other Australian multi-jurisdictional tribunals, private and public sector remuneration rates for professional legal staff.
4. Recommendations related to a proposed remuneration package for the positions noted earlier, including upper and lower remuneration ranges.
5. Identification of any substantial or significant changes to benefits included in remuneration packages elsewhere or conditions of engagement.

Mercer was advised by the Department that, while the initial terms of appointment (5 years) did not contain provisions for remuneration adjustment, they were subsequently increased, by Ministerial direction, by 2.5% and 2.2%, i.e., the same as those applying to the Queensland Public Service Senior Executive Service, with effect from 1 July, 2011, and 1 July, 2012, respectively. We are also advised that movements in Senior Executive Service will, in future, flow to QCAT Membership.

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Mercer's Approach

In order to ensure that appropriate and market comparable remuneration levels were identified, Mercer adopted an approach which included:

- Gaining a detailed understanding of the three roles.
- Making an assessment of current remuneration arrangements.
- Researching remuneration available in the broader market, including in other similar multi-jurisdictional tribunals and appropriately qualified legal positions.

The following table (Table 1) outlines Mercer's detailed approach for this review.

Table 1: Mercer's Approach

Activity	Detailed Steps
Project planning	<ul style="list-style-type: none"> • Confirmation of project scope • Confirm timing and consultation framework • Identify key stakeholders and confirm consultation arrangements
Data collection	<ul style="list-style-type: none"> • Gather detailed position documentation and information for each role type • Discuss roles with key stakeholders to confirm the scope and accountability of each position. It is proposed that consultation will include: <ul style="list-style-type: none"> – President Executive Director Deputy Director-General Justice Administration • Facilitation of a focus group discussion with a representative sample of each role <ul style="list-style-type: none"> – Senior Member; Member; and Adjudicator
Role Analysis	<ul style="list-style-type: none"> • Undertake work value assessments for the positions utilising the JEMS methodology to identify 'role size' and inform remuneration decisions
Research	<ul style="list-style-type: none"> • Undertake research to identify remuneration levels for similar roles in other Australian multi-jurisdictional tribunals • Undertake research to identify remuneration levels for legal roles requiring commensurate levels of qualification and experience and in the private and public sectors
Remuneration Analysis	<ul style="list-style-type: none"> • Interrogate Mercer's remuneration databases to identify appropriate remuneration levels for member roles within QCAT
Reporting	<ul style="list-style-type: none"> • Provide the Department with a draft report, identifying remuneration recommendations and other considerations • Present draft report to the Department • Incorporate feedback and provide final report

The remainder of this report presents the findings of Mercer's consultation activities, remuneration data collection and analysis and recommendations.

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Analysis of Roles

Mercer's first step in the review process was to establish a clear understanding of each of the roles as a basis for work value assessments and remuneration analysis. This chapter presents Mercer's understanding of the current organisational context of QCAT and the scope and accountability of the respective roles.

QCAT Context

As mentioned in Chapter 1, QCAT's structure on implementation differed from that originally proposed. In addition to a President (Supreme Court Judge) and Deputy President (District Court Judge), it had been proposed to create two levels of Senior Members as well as Ordinary Members. The Senior Members (Head of Division) were to have been primarily responsible for the leadership and management of the members of the Tribunal's Divisions (it was also expected that the Deputy President would head one of the Divisions). On the other hand, the Senior Members (Head of List) were to have been primarily responsible for the leadership of a multi-disciplinary professional practice, including presiding and providing professional advice and guidance, and Ordinary Members were expected to attend tribunal meetings and exercise the tribunal jurisdiction for the specific lists to which they would be appointed.

Between January and the commencement of QCAT on 1 December, 2009, it was decided that there would be one level of Senior Member (4 roles) each of which would be responsible for leading and managing one of the four QCAT Divisions – Civil, Human Rights, Administrative and Disciplinary and Minor Civil Disputes and Appeals. In addition to other responsibilities, the Deputy President is also responsible for the health discipline jurisdictions.

As originally proposed, Members exercise the various tribunal jurisdictions for the specific lists developed within each Division and Mercer has formed the view that there has been some amalgamation, over time, of the earlier proposed Senior Member (Head of List) and Ordinary Member roles. At the same time, the creation of the Adjudicator role was intended to deal with the large volumes of less complex matters in the Minor Civil Disputes jurisdiction. Many Adjudicators are engaged part time and also function across jurisdictions as part time Sessional members.

On that point, Mercer notes that, while Senior Members and Members primarily exercise their responsibilities within the Lists within the respective Divisions to which they are assigned as originally proposed, they may be required to operate across the Divisions and Lists where it is determined that they have suitable and relevant expertise. Currently there are nine Members, two of whom are part-time.

The Adjudicators are specifically engaged in meeting the heavy demands in the minor civil disputes areas (tenancies, minor debts, trader claims etc.). There are currently eleven Adjudicators, eight of whom are appointed on a part-time basis. Arrangements are somewhat blurred as many of the part-time Adjudicators are also required to assist in Members' work on occasions. In these cases, the individual is also engaged as a part time Sessional Member for these duties.

Mercer notes that the adjective "Minor" in relation to this minor civil disputes jurisdiction may tend to connote a lower level of complexity and value than the other jurisdictions. While there are differences (as there are between the other respective Divisions), such a connotation does not, in Mercer's opinion, accurately reflect the nature and level of the jurisdiction.

There are ninety eight part-time Sessional Members including seven who are appointed as part-time Adjudicators.

In the course of its review, Mercer's attention has been drawn on a number of occasions to the manner in which the roles have evolved over the past four and a half years. Mercer has noted in particular that:

- At inception, it was anticipated that both the Senior Members and Members would be responsible for particular Divisions/Lists and specialised areas whereas, in fact, workload and resource demands have created a situation where they are required to sit across all jurisdictions. This development has, in turn, created a strong collegiate policy and operational environment which has had a positive impact on the strategic and operational directions of QCAT.
- Senior Members play a significant strategic leadership role, through membership of the QCAT Board, in setting the strategic directions and policies of the Tribunal, including the development of innovative practices.
- Both Senior Members and Members are required to sit on appeals with the President and/or Deputy President and to draft decisions.
- Both Senior Members and Members have responsibility for peer appraisal, for education and training activities and, in the case of Members, for mentoring Sessional Members. There is an expressed view within the Membership that the time invested in these responsibilities has increased.
- The use of Alternative Dispute Resolution (ADR) has increased noticeably over the life of QCAT and has influenced the manner in which hearings are conducted and matters resolved, including a significant increase in the number of mediations and compulsory conferences.
- The role of Adjudicator was originally modelled on that of a Judicial Registrar and although there are differences, comparison continues to be valuable.
- Approximately 60% of QCAT's work now falls within the Minor Civil Disputes (Adjudicators) area.

Position Analysis

The following paragraphs detail Mercer's understanding of the three roles under review. This understanding is based on the discussions with the President, the Executive Director, four Senior Members, seven Members and six Adjudicators as well as an extensive range of relevant documentation and written submissions. The role overviews contained in the following paragraphs form the basis of the analysis and recommendations contained later in this report.

Senior Member

Senior Members are primarily responsible for the leadership and management of the Members within their Division but, as indicated below, Members act independently when exercising decision-making powers. Senior Members undertake the supervision of all Lists, delegate work and direct scheduling matters for Members. They decide appeals solely from the Minor Civil Disputes jurisdiction but undertake appeals in other Lists with the President or Deputy President and are required to sit across all the QCAT jurisdictions. Senior Members may hear some matters that could otherwise be conducted in the Supreme Court or District Court.

The Senior Members are, together with the President and Deputy President, members of the QCAT Board and, as well as contributing to the strategic planning, development and operational management of the Tribunal, are responsible for the professional development and continuing education of all Members (full time and sessional) as well as participating in Board Committees e.g., the Rules Committee. They play a major role in strategic stakeholder management particularly in relation to the implementation of new and improved processes and procedures and achieving consistency across all jurisdictions.

Potential appointees must be an Australian lawyer of at least eight years' standing or who has, in the Minister's opinion, extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the tribunal. As noted earlier, appointees must now also have the capacity to work across all Divisions and Lists. The role requires communication and management skills of the highest order.

Member

Members are responsible for the case management of Lists under the general direction of Senior Members, are required to sit across all jurisdictions and decide appeals from the Minor Civil Disputes jurisdiction and in other jurisdictions with a senior Member or judicial member. Effective case management requires the application of sophisticated techniques including Directions Hearings and Compulsory Conferences, together with the constant exercise of a high level of critical judgement.

Members also provide assistance to Senior Members in stakeholder management, are required to sit on, and contribute to, Board Committees and to mentor sessional members. They contribute to training programmes (particularly in Alternative Dispute Resolution), make presentations and play a key role in QCAT's appraisal process. They are also expected to contribute to the development of improved policies, processes and procedures.

Members are recommended for appointment by the Minister after advertisement and consultation with the President. Appointees must be an Australian lawyer of at least six years' standing or who has, in the Minister's opinion, special knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal. As is the case with Senior Members, Members must now have the capacity to work across all Divisions and Lists. They also require a similar level of superior communication and management skills.

Adjudicator

Adjudicators are responsible for managing and deciding all matters falling within the Minor Civil Disputes jurisdiction which include debts, consumer and trader disputes, property damage caused by a motor vehicle, repairs to a defect in a motor vehicle, disputes under the (now repealed) *Dividing Fences Act 1953* and the new *Neighbourhood Disputes Resolution Act 2011* and residential tenancy matters where a lessor is in dispute with a tenant. Adjudicators conduct hearings across South East Queensland and, in other regions, they are conducted by Magistrates. The decisions of Adjudicators can be subject to appeal.

There has been a steady increase since 2009 in the number and legal complexity of matters within this jurisdiction, reflecting in part to an increased level of understanding of QCAT's role among the general public, and the Adjudicators operate under a heavy workload and time pressure to resolve matters as quickly as possible. In any one day they may be required to hear up to a dozen contentious matters of varying length and complexity. They deal with litigants in person, often in a highly charged and volatile atmosphere. Adjudicators may also function as part-time Members, but these arrangements are dealt with as a separate engagement and have not formed part of Mercer's work value assessment.

Appointees to the Adjudicator role are required to be Australian lawyers of at least five years standing. They require a high level of knowledge, experience and expertise across the Minor Civil Disputes jurisdiction as well as the capacity to deal with matters under other Lists.

They also require the ability to define and make sound assessments of the matters in dispute and to reach prompt decisions in a contentious dispute environment. In addition to superior communication skills, Adjudicators must have the capacity to read and interpret litigants' claims and expectations on an on the spot basis and to exercise a high level of critical judgement in a prompt but fair manner.

Work Value Assessment

Mercer believes that the work value profiles in Table 2 appropriately and reasonably reflect the contribution of each role within the Tribunal.

Table 2: Work Value Assessment for Three QCAT Member Roles

Position	Impact	Expertise	Judgement	Accountability	Total
Senior Member	Advice	G-4+d+ 356	E-5 331	F+3-d 471	1158
Member	Advice	F+4d+ 309	D+5- 218	F-2+d 356	883
Adjudicator	Advice	F4-d 269	D+4+ 177	E+2d 269	715

Mercer notes that the assessment of the Senior Member role is the same as that developed for the Senior Member (Head of Division) role in 2009.

The profile for the Member role is higher than the 2009 evaluation for the Ordinary Member role as Mercer considers that an upward adjustment of the *breadth* sub-factor (**Expertise Factor**) from **4-** to **4** together with an increase from **2-** to **2+** in the *impact* sub-factor (**Accountability Factor**), is justified to more accurately reflect the fact that Members may operate across multiple Lists and to sit on Appeals. In 2009, the score for the Ordinary Member was 68.7% of the Senior Member (Head of Division) role and, while the respective roles are not directly comparable, the relationship between the Member and Senior Member roles is now 76.2%, which Mercer believes more properly reflects both the nature of the current relationship and the changes that have occurred to both roles since the QCAT's establishment.

The profile for the Adjudicator differs from the 2009 assessment for that of the Ordinary Member in 2009 in that the role is established under quite a different set of assumptions. In terms of the overall relationship between Members and Adjudicators, Mercer notes that the Adjudicator role has achieved a work value score which is 85% of that of Member, a relationship that Mercer considers to be equitable in the circumstances.

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Remuneration Data

The current remuneration (as at 1 July, 2012) for each of the three reviewed roles is contained in Table 3.

Table 3: Current Remuneration Arrangements QCAT

Tribunal	Remuneration (Base Salary)	Remuneration (Base Salary plus Super, Leave Loading and vehicle ¹)
Senior Member	\$220,416	\$276,907
Member	\$173,182	\$197,532
Adjudicator	\$107,764	\$122,916

To identify an appropriate level of remuneration for Member positions within QCAT, Mercer has, as was done in 2008, sourced comparable remuneration data from a number of sources including:

- Remuneration data for Member positions within other multi-jurisdictional tribunals.
- Current remuneration arrangements for members in existing, dedicated tribunals and boards.
- Published remuneration data for judiciary positions within Queensland.
- Mercer's extensive general market remuneration database.
- Identified classification and remuneration data for other senior legal positions within the Queensland Public Service.
- Identified remuneration data for legal positions across the market more broadly.

This chapter presents the outcome of Mercer's research.

Other Multi-jurisdictional Tribunals

Mercer has sourced remuneration data from two very similar Australian multi-jurisdictional tribunals: the Victorian Civil and Administrative Tribunal (VCAT) and Western Australia's State Administrative Tribunal (WA-SAT). Mercer notes that, while these tribunals are multi-jurisdictional, VCAT Members are appointed to specific lists e.g. guardianship, building etc. and are not required to operate on a cross-jurisdictional basis. On the other hand, SAT-WA Members sit across all lists, as is the case in QCAT.

Table 4 illustrates the Base Salary plus superannuation and vehicle benefits currently provided to Senior Members and Ordinary Members in these two multi-jurisdictional tribunals.

¹ Only Senior Members are entitled to a motor vehicle – current value \$25,500

Table 4: Multi-jurisdictional Tribunal Remuneration Comparison

Tribunal	Role	Remuneration (Base Salary plus superannuation & vehicle)
SAT-WA ²	Senior Member	\$305,896
	Ordinary Member	\$229,422
VCAT ³	Senior Member	\$254,600
	Ordinary Member	\$223,005

Table 4 shows that remuneration offered to Senior Members across the two tribunals range from \$254,600 to \$305,896. There is a lower variance in remuneration offered to Members, ranging from \$223,005 to \$229,422. Table 5 depicts the allowances and benefits offered for full time members between the two jurisdictions.

Table 5: Allowances and Benefits For Full Time Members

Benefits	VCAT	WA-SAT
Superannuation	May vary depending on the date of appointment but generally at the standard 9% guarantee provision	9% as per the Western Australian Public Service Award 2008
Car allowance	Fully maintained motor vehicle	Fully maintained Ford Falcon vehicle (option of \$24,000 per annum as entitlement if a vehicle is foregone)
Travel and personal expenses	Reimbursement of approved travel and personal expenses	Reimbursement of approved travel and personal expenses at the discretion of the President
Annual leave	20 days	15 days (112.5 hours @ 7.5 hours per working day)
Sick leave	15 days (5 days may be taken without a medical certificate)	10 days sick leave; or carer's leave
Long service leave	3 months after 10 years but can be accessed on a pro rata basis after an initial 7 years of continuous service	9.28 days per completed year accessible after 7 years of continuous service

These benefits remain unchanged from 2008 and are reasonably comparable to QCAT arrangements except that only Senior Members in QCAT are eligible for a motor vehicle benefit (valued at \$25,500).

²Western Australian State Administrative Tribunal – Date of effect 1 January, 2013.

³Victorian Civil and Administrative Tribunal – date of effect 18 September, 2012.

Dedicated Tribunals and Boards

In 2008, Mercer examined remuneration figures which were current at the time, for dedicated tribunals and boards. These figures which were accepted as benchmark comparators are displayed in Table 6 below.

Table 6a: 2008 Dedicated Tribunals and Boards Remuneration Comparison

Tribunal	Role	Remuneration (Base Salary plus Superannuation)
NSW CTTT ⁴	Chairperson	\$250,100
	Deputy Chairperson	\$231,300
	Senior Member	\$188,800
	Ordinary Member	\$162,700
Federal AAT ⁵	Senior Member	\$218,200
	Ordinary Member	\$183,500
NSW Guardianship Tribunal	President	\$244,900
	Deputy President	\$191,600
NSW Mental Health Review Tribunal	President	\$250,100
	Deputy President	\$220,300
NSW Administrative Decisions Tribunal	Deputy President	\$220,300
NT Remuneration Tribunal	Ordinary Member	\$147,700
Australian Law Reform Commission	Ordinary Member	\$166,100

⁴ New South Wales Consumer, Trader and Tenancy Tribunal – Remuneration current as 1 October 2008

⁵ Federal Administrative Appeals Tribunal – Remuneration current as at 1 July 2008

In this current review, Mercer has gathered the following benchmark comparator data.

Table 6b: 2013 Dedicated and Tribunals and Boards Remuneration Comparison

Tribunal	Role		Remuneration
NSW CTTT	Chairperson	Salary +super + leave loading	\$281,500
	Deputy Chairperson	Salary +super + leave loading	\$260,350
	Senior Member	Salary +super + leave loading	\$212,490
	Ordinary Member	Salary +super + leave loading	\$183,125
Federal AAT	Senior Member	Base Salary Total Remuneration	\$258,110 \$353,580
	Ordinary Member	Base Salary Total Remuneration	\$217,150 \$297,640
NSW Guardianship Tribunal	President	Salary +super + leave loading	\$275,625
	Deputy President	Salary +super + leave loading	\$215,640
NSW Mental Health Review Tribunal	President	Salary +super + leave loading	\$346,355
	Deputy President	Salary +super + leave loading	\$303,025
NSW Administrative Decisions Tribunal	Deputy President	Salary +super + leave loading	\$247,890
Australian Law Reform Commission	Ordinary Member	Base Salary	\$188,940

Work Value Based Remuneration Data

Table 7 provides General Market remuneration data forecast as at April, 2013, at Base Salary (BS) and Employment Cost (EC) aggregates. Employment Cost includes base salary, superannuation, motor vehicle benefits and any other FBT items or allowances attached to the salary package. It does not include performance or short term incentive payments. Data is provided at the first and second quartiles (Q1 and median).

Table 7: General Market Remuneration Data Forecast as at April 2013

Position	Work Value	Aggregate	Q1	Median
Senior Member	1158	BS	\$195,080	\$238,970
		EC	\$278,420	\$342,270
Member	883	BS	\$158,000	\$189,880
		EC	\$217,290	\$263,990
Adjudicator	715	BS	\$145,610	\$170,880
		EC	\$183,770	\$220,240

Comparison with Magistrates' Remuneration

There are a number of similarities between all three roles and Magistrates which lend support to benchmarking with such roles, and in some jurisdictions member rates are related to these.

These include the:

- Requirement to preside over formal hearings.
- Complexity of facts in the cases heard.
- Complexity of law/legislation including conflict between legislation and the requirement to interpret the legislation in making decisions.
- Representation of parties to the hearing by legal counsel.
- Requirement to make independent decisions and orders.
- Fact that decisions are appealable to a High Court.

Table 8 below shows Base Salary levels for Magistrate roles in all Australian jurisdictions.

Table 8: Magistrate Remuneration Comparison

Jurisdiction	Remuneration (Base Salary)
New South Wales	\$288,620
Victoria	\$279,194
Queensland	\$317,067
South Australia	\$280,610
Western Australia	\$305,895
Tasmania	\$272,468
Northern Territory	\$302,142
Australian Capital Territory	\$290,958

Note that calculation of a total package value is not possible as specific benefit data is not readily available. However, all jurisdictions provide superannuation and most a motor vehicle in addition to Base Salary.

Other Queensland Public Service (QPS) Legal Positions

In its 2008 review, Mercer also examined classification and remuneration arrangements for senior legal practitioners employed in the Queensland Public Service while noting that the Senior Members, Members and Adjudicators are statutory office holders and not members of the Queensland Public Service. With this reservation in mind, the most relevant roles for comparison would appear to be those employed in the offices of Crown Law and the Director Public Prosecutions. The majority of the most senior roles in those organisations are classified within the Senior Executive Service from ranging from SES 2 to SES 4 and remunerated at those levels.

Mercer notes that the work value outcomes for the Member roles outlined in Section 3 of this report would result in classification from SES2 to SES3 within the Senior Executive Service, although the Adjudicator role would align with the Senior Officer level.

Mercer also notes that Queensland Public Sector Senior Executive Service salaries remain among the lowest nationally and issues in relation to attraction and retention have been evident for some time. In this context, therefore, Mercer does not consider remuneration consistent with the Senior Executive Service levels would be either appropriate or sufficient to attract and retain suitable candidates to the QCAT roles.

Private Sector Legal Practitioners

Given the nature of the QCAT roles, valid comparisons with legal practitioner roles in the private sector are, at best, tenuous a major consideration is the fact that QCAT roles are essentially judicial in nature and require a set of capabilities which differ from in nature and depth, in a number of respects, those required by senior legal practitioners in private practice, even though valid comparisons can be drawn in terms of the level and nature of experience and expertise.

Table 9 contains data extracted from Mercer's National Top Tier Legal Remuneration Survey (January 2013 Edition) for Senior Associates (5+ years promotion) and Special Counsel at the First Quartile and Median for both Base Salary and Employment Cost. This data is not based on defined work value levels but reflects information supplied by up to sixteen major firms in Brisbane, Sydney, Melbourne, Canberra and Perth and is provided solely as an indication of the levels of remuneration for these two roles without implying any direct connection, in work value terms, to the QCAT roles. Mercer's survey does not extend to the Partner level.

Table 9: Senior Associate and Special Counsel – Top Tier Legal Remuneration Survey, January, 2013

Position	Base Salary Q1	Base Salary Median	Employment Cost Q1	Employment Cost Median
Senior Associate	\$190,023	\$207,280	\$206,493	\$223,750
Special Counsel	\$208,530	\$228,530	\$225,000	\$245,000

Having considered the preceding benchmark data, Mercer would observe the following benchmark comparators to be most applicable.

Table 10: Summary of Benchmarked Comparators on (actual and notional) Employment Cost

Position	VCAT EC	WA-SAT EC	QLD Magistrate BS	General Market (EC) Q1-Median Range
Senior Member	\$254,600	\$305,896	\$317,067	\$278,415 - \$342,271
Member	\$223,005	\$229,422	\$317,067	\$222,874 – 271,284
Adjudicator	N/A	N/A	\$317,067	\$183,770 - \$220,240

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Analysis and Recommendations

In determining what remuneration should apply to the positions under consideration, Mercer believes there are two principal issues requiring analysis:

- Determining the appropriate benchmarks for establishing remuneration.
- Taking into account the remuneration arrangements which currently apply.

Our research of practices in other jurisdiction suggests that there is some variation both in terms of the scope and accountabilities of positions and there are a range of practices around remuneration that can serve to make direct comparisons difficult. Such issues include different superannuation contribution rates and treatment of motor vehicles – the latter either included or not included in the remuneration package.

In determining relevant and appropriate benchmarks, Mercer sees no reason to depart from the approach it adopted in its January, 2009, review that the most appropriate comparator for Senior Member roles were those sourced from multi-jurisdictional tribunals, Australian magistrates and other senior legal roles in Queensland (from a work value perspective). Similarly, for the Member roles, the multi-jurisdictional tribunals in Victoria and Western Australia would be appropriate benchmark comparators. After adopting this benchmarking approach, Mercer then benchmarked the outcomes against its General Market data for positions with the same work value outcomes.

On this occasion, and bearing in mind the conclusions reached in relation to developments within QCAT and within each of the three roles over time, as well as the conclusions reached in relation to comparative work value outcomes, Mercer is satisfied that these comparators remain the most relevant and appropriate benchmarks. In doing so, Mercer acknowledges the fact that the remuneration of Magistrates in Queensland (and in all other jurisdictions) is derived from a fixed percentage of judicial remuneration. QCAT appointees are not presently classed as judicial officers but, as indicated earlier, it is not unreasonable to benchmark the QCAT roles against Magistrates as well as the multi-jurisdictional tribunals, given the degree of comparability in the roles and jurisdictions.

In its 2009 report in relation to remuneration practices, Mercer recommended a total package approach which was consistent with our standard advice to the Queensland Government in respect of executive level salaries. This included base salary, superannuation, and motor vehicle should it be made available. Motor vehicle costs were calculated as per Queensland Public Sector practices for SES 2 level positions. Generally speaking, there have not been any significant changes in benefits arrangements between the various jurisdictions although, as mentioned elsewhere, there are some variations in benefits e.g. superannuation, between the various jurisdictions.

Mercer notes that, while the provision of a motor vehicle (or allowance in lieu) was adopted in the case of Senior Members, the benefit has not been applied to Members and Adjudicators. We note that the VCAT and WA-SAT remuneration rates include motor vehicles in the case of full time members, and Mercer's General Market Employment Cost (EC) data also includes them. In order to gauge the validity of its conclusions from the comparator benchmarks to the General Market data, Mercer has factored in the value of the motor vehicles in Table 11 below.

General Market Indications

Based on our analysis of the remuneration practices in the General Market, the interstate multi-jurisdictional tribunals and senior legal roles including Magistrates, Mercer recommends the following remuneration packages for the respective positions:

- Senior Member \$297,860
- Member \$216,639
- Adjudicator \$166,118

Table 11 provides the package elements in detail.

Table 11: Recommended Remunerations Based on General Market

Position	Base Salary	Super 12.75%	Base Salary plus Super & Leave Loading	Motor Vehicle	Total Remuneration Package
Senior Member	\$239,000	\$30,472	\$272,360	\$25,500	\$297,860
Member	\$189,880	\$24,210	\$216,639	N/A	\$216,639
Adjudicator	\$145,600	\$18,564	\$166,118	N/A	\$166,118

In developing these recommendations, Mercer has adopted the Median of the Base Salary data as its starting point for the experienced Senior Member and Member positions as it provides a reasonably competitive market position and it also provides sufficient room for an appropriate rate of adjustment between the benefits available in Queensland, the various jurisdictions and the General Market. In the case of the Adjudicator positions, Mercer considers that the 25th percentile provides an adequate market benchmark in the case of professional legal roles with a 5 year experience threshold.

Table 12 provides a summary of the benchmarked comparator jurisdictions. Mercer draws attention to the following:

1. The General Market Employment Cost (EC) figures include the value of a motor vehicle.
2. The proposed remuneration for the Member and Adjudicator roles does not include the value of a motor vehicle.

Table 12: Summary of Benchmarked Comparators on (actual and notional) Employment Cost basis

Position	QCAT EC	VCAT EC	WA-SAT EC	QLD Magistrate BS	General Market (EC) Q1-Median Range
Senior Member	\$297,860	\$254,600	\$305,896	\$317,067	\$278,415 - \$342,271
Member	\$216,639	\$223,005	\$229,422	\$317,067	\$222,874 – 271,284
Adjudicator	\$166,118	N/A	N/A	\$317,067	\$183,770 - \$220,240

Table 12 demonstrates that the remuneration proposed for the Senior Member falls between the First Quartile (Q1) and the Median of the General Market on an Employment Cost (EC) basis, a market position which is matched by VCAT and WA-SAT and which Mercer considers appropriate for statutory office roles of this nature.

The remuneration proposed for Ordinary Members falls marginally below this market position, and also marginally below the equivalent roles in VCAT and WA-SAT. It must be noted, however, that in the case of the latter the remuneration incorporates provision of a motor vehicle benefit.

No equivalent comparison is available across jurisdictions for the Adjudicator. In addition the proposed remuneration falls below the benchmarked general market range, however once again it must be noted that positions at this work value level will typically attract a motor vehicle benefit. This explains the variation evidenced.

QPS Remuneration Comparisons

There is little doubt that Queensland Public Service SES remuneration is very uncompetitive in comparison to other jurisdictions, but it is useful to identify where proposed remuneration for Members would place them against mainstream public service employees.

In the case of Senior Members (proposed remuneration \$297,860), roles would equate to the SES 3 level, which provides total remuneration between \$204,463 and \$233,511.

In the case of Ordinary Members (proposed remuneration \$216,639), roles would equate to the SES 2 level, which provides total remuneration between \$172,878 and \$179,241.

In the case of Adjudicators (proposed \$166,118), roles would equate to the Senior Officer level which provides total remuneration between \$131,078 and \$143,806.

In summary, the proposed remuneration rates are 27.6% higher than top public service rate for Senior Members; 20.9% higher in the case of Ordinary Members; and 15.5% higher for Adjudicators.



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