



Report of the
REMUNERATION AUTHORITY

for the period ended
30 June 2010

Presented to the House of Representatives Pursuant to
Section 27 of the Remuneration Authority Act 1977

REPORT OF THE REMUNERATION AUTHORITY FOR THE YEAR ENDED 30 JUNE 2010

Introduction

This report, although prepared in accordance with the statutory obligation of the Remuneration Authority to submit an annual report to the Responsible Minister, in fact covers the 15 months from 1 April 2009 to 30 June 2010.

The Remuneration Authority Amendment Act 2009 changed the reporting period of the Authority from the year ended 31 March to the year ended 31 June. This report is, therefore, a transitional report, bridging the change in the statutory reporting period.

Statutory and Policy Context

The substantive provision in the 2009 Amendment Act was the introduction of an additional criterion for the Authority to take into account when determining the remuneration of any position within its jurisdiction. The Authority must now take into account any prevailing adverse economic conditions, based on evidence from an authoritative source. On the basis of its consideration of such conditions, the Authority may then determine remuneration at a lower rate than it would otherwise have determined.

This was not so much a new requirement as a clarification and reinforcement of the existing statutory requirement that the Authority be fair to taxpayers and ratepayers as well as to those whose pay it sets. This new criterion, and the policy consideration which preceded its incorporation into the Remuneration Authority Act, raised important issues about the boundary between the long-standing independence of the Remuneration Authority and its predecessor organisation, and the legitimate expectations of the Government of the day that its economic and fiscal policies should be recognised and reflected across the state sector.

The policy debate which preceded the amendment, and some political and media comment at the time, in fact resulted in the testing and re-validation of the *raison d'être* of the Remuneration Authority.

The principal reason for the existence of the Remuneration Authority is to ensure that the remuneration of those who are subject to its determinations is free, and is seen to be free, from political and populist pressure. There are slightly different considerations for each of the groups whose pay comes within the Authority's jurisdiction.

Judges, for example, must be able to conduct the business of the judicial system with confidence about their long term financial security, and without any suggestion that the executive arm of government is able to influence their conduct or decisions through the leverage of their remuneration.

Elected representatives of both central and local government would be placed in an impossible position if they were required to set their own pay. No time would be politically opportune for them to increase their pay, however well justified an increase might be. Furthermore, the process of consideration of an adjustment itself provides an opportunity for elected members, or those aspiring to such office, to claim the moral high ground – that now, or subsequently if elected, they would oppose such increases.

For the same important reasons, those for whom remuneration is set by the Authority must be paid the amount determined by the Authority. Therefore there is no advantage to be obtained from applying pressure on elected representatives, judges or statutory officers, to decline pay increases. That too is consistent with the purpose of the Authority.

These matters were canvassed prior to what was, in the event, a carefully constrained amendment to the Remuneration Authority Act which came into effect in December 2009.

Economic and Fiscal Context

The amendment to the Remuneration Authority Act required the Authority to balance five statutory criteria which can be paraphrased as:

- Fairness to the individuals whose pay is being set.
- Fair relativity with comparable positions.
- The ability to recruit and retain suitable people.
- Fairness to the taxpayers or ratepayers who ultimately foot the bill.
- The prevailing economic and fiscal situation.

In one respect this was not novel. Balancing the first four of these criteria has, of course, always been the core business of the Authority and its predecessor, the Higher Salaries Commission. However, there were two elements which assumed particular importance in the Authority's deliberations in the last year:

- The Authority's remuneration determinations follow the remuneration "market", including the State Services Commissioner's decisions in the previous year on public service chief executives' pay. Therefore the remuneration increases determined by the Authority in 2009 were informed by survey data available from the first quarter of 2009, and which in turn reflected remuneration decisions taken a year or more earlier. Fairness to the individuals whose pay we were setting required some recognition of this situation in our decisions, even if growth in state sector pay was rapidly slowing in 2009.

- In terms of their aggregate cost, the remuneration decisions of the Authority have a minor impact on the fiscal position of the Government. But the Authority's decisions have symbolic importance. In circumstances where the elected members of central or local government are trying to hold or reduce expenditure, by cutting services and staff and by holding the pay of current staff, increases to their own remuneration makes their job more difficult, and more difficult to sustain politically.

These posed challenges for the Authority. The ways they were resolved, either prior to or following the passing of the Remuneration Authority Amendment Act, are covered in the following comment on the determinations issued in the 15 months to 30 June 2010.

Members of the House of Representatives

The Authority decided that there should be no adjustment to Members' remuneration for 2009/10.

The decision was informed by three considerations. There was a sharp reduction in the growth of state sector pay during 2009. The Authority recognised that those who were requesting or requiring others to reduce public expenditure and forgo salary increases should, in turn, be able to demonstrate leadership in that regard. In a 10 February 2009 resolution, Members of Parliament unanimously expressed their wish for no increase in their remuneration arising from the Remuneration Authority's 2009 review.

No adjustment was made to the level or nature of the superannuation subsidies available to Members of Parliament.

No adjustment was made to the basic expenses allowance. The allowance is not part of remuneration, and therefore the setting of the allowance is not subject to the same statutory criteria as remuneration. However, the Authority considered that, consistent with the general requirement being set by the Government for fiscal constraint, and in the absence of any submission in favour of adjusting the allowance, it should remain at the same level at least for a further year.

Local Authorities

(a) Remuneration setting system

To meet its statutory obligations, and achieve transparency, fairness, and consistency in remuneration-setting across diverse local authorities, in 2002 the Authority established a model to assist in determining the cost of governance and representation for each local and regional authority. The model incorporates 4 criteria that are transparent and readily verifiable from published data, namely—

- population:
- operational expenditure:
- net assets controlled:
- rate of population change.

This provides the Remuneration Authority with a ranking order of the relative size of the governance and representation responsibility of each local and regional authority.

The model also allows for the incorporation of a general movement in remuneration to help ensure that adjustments to the salaries of elected representatives reflect not only the size of their roles, but also any market movement in remuneration that the Authority considers should be applied to their salaries.

The application of these factors results in a sum of money (the **indicative pool**) attributable to each local and regional authority. Councils are informed of the size of the pool and are invited to recommend to the Authority the distribution of the pool as remuneration for each elected member.

(b) 2009 determination

The Authority calculated the indicative pools for the 2009 determination in late 2008, at which stage the economy was slowing, but the seriousness and impact of what became characterised as the “international financial crisis” was not as apparent as it later became. The Authority applied a general remuneration movement of 3%.

The incorporation of this general adjustment and the other 4 factors into our model generated changes in the indicative remuneration pools for each local and regional authority ranging from an increase of over 8% (atypically for a high-growth council) to negative adjustments in some cases. (Where there was a negative movement, the pool was held at the 2008 level.)

Each council was then invited to recommend the distribution of its pool for the 2009/10 financial year.

Subsequent to this notification to councils, the Treasury released its post-election fiscal update. The Government's response to the update emphasised the need for a sustained period of strict control over government expenditure. Part of that response was a call for restraint on movement in remuneration generally, and for senior state sector employees and office-holders. As referred to above, Parliament itself resolved unanimously not to seek any increase in remuneration for its Members in 2009/10.

In this context, some councils expressed concern about increasing the salaries of elected representatives when they also were facing difficult funding choices. The Authority therefore advised all councils in late January 2009 that, where there was unanimous agreement within a council not to increase salaries of elected members, the Authority would consider a recommendation to defer any increases that would otherwise have applied from 1 July 2009.

Councils took a variety of approaches to recommending the allocation of the pool. The overwhelming majority accepted the increase, whilst 16 councils requested to decline the increase. The 2009 determination for local government elected members, which applied from 1 July 2009 to 30 June 2010, reflected those decisions and requests.

(c) 2010 determination

Although the application of the determination for the period from 1 July 2010 to the October 2010 local body elections falls outside the coverage of this report, the determination itself was issued in late June and notified in the Gazette on 1 July 2010.

The Authority did not consider that a general increase to the previous year's level of remuneration was warranted. Where councils applied the full indicative pool for 2009/10, the same remuneration levels were carried forward in the determination from 1 July 2010. For those councils where the Authority agreed to their requests to hold their remuneration in 2009/10, the Authority now required them to allocate the full amount of the 2009/10 indicative pool. This resulted in the first substantive adjustment to their remuneration since 1 July 2008, re-established fair relativities across councils, and reflected the Authority's long-held view that the acceptance, or otherwise, of remuneration adjustments should not become a political issue, especially in a pre-election period.

(d) New Auckland Council

The first determination for the Auckland "super city" was notified in the Gazette on 24 June 2010. The determination attempted to balance the need for certainty of remuneration to ensure that suitably qualified candidates would put themselves forward for election, and the inevitable uncertainties about how the new structures would work in practice.

As the relationships between the council and council controlled organisations, and between council and local boards, become clearer over the next few years, the Authority will revisit the remuneration relativities among the elected representatives.

(e) Policy matters

During the year, and separate from the remuneration determinations, the Authority reviewed: the current validity and appropriateness of the remuneration setting model itself; the relativity between Mayors and Chairs of Regional Councils, and ordinary elected members, in terms of job size, time commitment and remuneration; and the current structure of the motor vehicle mileage allowance for elected members. The results of this work will be incorporated in future determinations.

Judiciary

There were no immediate, pressing recruitment or retention issues with any of the benches, nor any matters requiring the salary relativities between benches to be addressed, which were brought to the Authority's attention in the year. Therefore the Authority decided that any salary adjustment would apply equally to all benches.

Remuneration growth in many areas of the legal profession levelled off during late 2008 and 2009 and, in some instances, remuneration may have fallen. However, the remuneration of those in the areas of the legal profession that are the catchment for appointees to the High Court in particular, remained well ahead of the remuneration of the High Court bench.

The slowing of remuneration growth in the profession provided an opportunity for some closing of the remuneration gap.

However, after taking into account the then new section 18A of the Remuneration Authority Act (the "adverse economic conditions" provision), and in particular the provision allowing the Authority to make a determination at a lower rate than it might have done had it not taken those conditions into account, the Authority made a small, across-the-board, increase in the salaries of the judicial officers specified in the determination.

No change was made to the yearly principal allowance for general expenses.

Civil List

In the only Civil List determination gazetted in the 15 months to 30 June 2010, the Authority increased the rate of the annuity payable to those persons who have been Prime Minister for more than two years, and to the surviving spouses or partners of a Prime Minister of more than two years. The increase was of the order of 3.8%.

Statutory Officers

Remuneration for statutory officers is determined on their appointment and reviewed annually. The review date for the overwhelming majority of these positions is 1 July each year.

As usual the Authority wrote to each statutory officer inviting them to make a submission to the Authority on any matters which they thought the Authority should take into account in its review. A number requested the Authority to make no adjustment to their remuneration for 2009/10.

There were two related reasons for these requests:

- Some of the office-holders have close working relationships with the chief executives of Public Service Departments. The chief executives had been advised of a nil pay adjustment for 2009/10 and a number of the statutory officers felt something of a moral obligation to “burden share”.
- Those office-holders who had chief executive responsibilities within their own organisations were attempting to hold the line on expenditure and considered that their task would be made more difficult if they were perceived as immune from the constraints and economies they were expecting of others.

In response the Authority adopted the policy that, where a statutory officer requested no increase, and where his or her current remuneration was close to where, in the Authority’s view, it should be for 2009/10, the Authority would accede to their request. However, if their current remuneration was well short of its fair and proper level, the Authority would make an adjustment.

Most of those who requested no increase came into the first category.

In the Authority’s view this approach achieved a fair balance between the requirement of fairness to taxpayers (subsequently reinforced by the new section 18A of the Remuneration Authority Act), and the requirement to be fair to the individuals whose remuneration we set.

Appreciation

The Authority records its appreciation of the work of its Executive Officer, Mrs Patricia Gordon, and contractors, and of the assistance it has received from numerous organisations and individuals. Departmental officers with whom the Authority has dealings have again been helpful and responsive to the Authority’s requests, and in particular, Parliamentary Counsel and Crown Law have provided much appreciated services and assistance to the Authority.

Michael Wintringham

John Errington

Angela Foulkes

Annex

Membership

Chairman: Mr David Oughton (to 31 July 2009)
Mr Michael Wintringham (from 21 September 2009)

Members: Mr John Errington (from 21 September 2009)
Ms Angela Foulkes
Mr Michael Wintringham (to 20 September 2009)

Staff

The Authority's Executive Officer is Mrs Patricia Gordon. No other staff are employed but specialist contractors and advisers are engaged as the need arises.

Jurisdiction

The Authority's jurisdiction covers:

- The salaries, basic expense allowance and office-holder allowance of Members of the House of Representatives;
- The remuneration of a wide range of statutory officers;
- The salaries and principal allowances of members of the Judiciary;
- The remuneration, allowances and expenses payable to the elected members of local authorities.

In addition, the Authority determines the superannuation rights and obligations of members, both of the House of Representatives and of the Judiciary, who are not members of the Government Superannuation Fund. It has discretionary ability to determine superannuation subsidies, where appropriate, in respect of other statutory officers within its jurisdiction.

Under the Civil List Act 1979, the Authority is charged with determining the salary of the Governor-General, and annuities for former Governors-General and former Prime Ministers and their surviving spouses or partners.

Determinations

The Authority completed and issued 121 determinations during the 15 month period. In each case the parties affected by the determination were consulted prior to issuing the determination.