



## Attorney-General

Level 26  
121 Exhibition Street  
Melbourne Victoria 3000  
GPO Box 123  
Melbourne Victoria 3001  
Telephone: (03) 8684 1111  
Facsimile: (03) 8684 1100  
DX: 210022

### *Judicial Entitlements Act 2015*

#### RECOMMENDATION STATEMENT PURSUANT TO SECTION 34

The 2016 Own Motion Recommendation Report (Report) of the Judicial Entitlements Panel (Panel) was laid before both houses of Parliament on 9 November 2016. Pursuant to section 34 of the *Judicial Entitlements Act 2015*, this recommendation statement sets out my response to the recommendations of the 2016 Own Motion Recommendation Report of the Panel.

The Report made seven recommendations concerning the allowances and conditions of service of Victoria's judicial officers.

After considering the recommendations of the Panel and receiving advice from the Department of Justice and Regulation, I intend to accept recommendations 1 and 2 of the Report without variation.

I intend to accept recommendations 3 and 7 of the report with variations. However, I do not accept recommendations 4, 5 and 6. Further details are set out below.

#### **Wellbeing entitlement (Recommendation 1)**

The Panel recommended that Victorian judicial officers, including judges and associate judges of the Supreme and County Courts, and magistrates, be entitled to a biennial comprehensive and confidential medical assessment from a dedicated service provider. The results would be confidential to the individual and, subject to their consent, the individual's health practitioners. The Panel recommended that such assessments could be purchased on a bulk basis by Court Services Victoria, on behalf of the judiciary.

#### *Attorney-General's response*

I intend to accept this recommendation in full. An entitlement certificate will be issued providing that judicial officers are entitled to a biennial, comprehensive and confidential medical assessment from a dedicated service provider, up to a value of \$1,000. The entitlement is to be adjusted annually in accordance with the increases in the all groups consumer price index for Melbourne published by the Australian Bureau of Statistics.

### **Clarifications to leave entitlements (Recommendations 2 and 3)**

The Panel recommended that the long service leave provisions for magistrates and associate judges be amended to provide that these officers are entitled to:

- pro rata access to long service leave after completing seven years of service;
- further accrual of 3/10th of a month of long service leave for each completed year of service after 10 years of service; and
- access to the additional accrued long service leave after completing 10 years of service.

The Panel also recommended that reserve judges and reserve magistrates who are engaged on a non-sessional (fulltime) basis be entitled to annual leave on the same basis as other judges or magistrates of the relevant Courts on a pro rata basis, during the period of their non-sessional engagement.

### *Attorney-General's response*

I intend to accept recommendation 2 in full.

I intend to accept recommendation 3 with variations so that it applies to reserve associate judges of the Supreme and County Courts, in addition to applying to reserve judges and reserve magistrates.

### **Library allowance (Recommendations 4, 5 and 6)**

The Panel recommended that the judicial library allowance be re-characterised as a professional development allowance, as follows:

- the scope of the existing allowance be expanded to include expenditure on professional development activities, such as attendance at conferences (Recommendation 4);
- the 80 per cent reimbursement cap on the existing allowance be removed (Recommendation 5); and
- the quantum of the entitlement be adjusted to reflect the actual remuneration relativities between judicial offices (Recommendation 6).

### *Attorney-General's response*

I do not accept recommendations 4, 5 and 6 for the reasons set out below.

Professional development is a critical component of supporting the judiciary. Professional development activities can enhance the expertise of our judicial officers, ensuring that they have the necessary skills and up to date knowledge to navigate highly technical areas of law. However, to achieve the best outcomes, it is desirable that professional development be managed in a systematic manner, taking account of the needs of each jurisdiction as a whole. Professional development should not be an individual entitlement.

The Judicial College of Victoria currently provides an impressive range of professional development to judicial officers and Court Services Victoria also supports the judiciary's professional development.

In relation to recommendation 5, the judiciary can access a range of legal resources provided by Court Services Victoria, including on-line resources. The 80 per cent reimbursement cap on the allowance reflects the fact that the judicial officers who purchase library material in accordance with the library allowance own the material upon their retirement. If the allowance is limited to being a library allowance, it is appropriate to retain the 80 per cent reimbursement cap.

In relation to the quantum of the allowance and the relativities between judicial officers of the respective courts, the courts have advised that the aggregate utilisation rates of the library allowance (the proportion actually spent of the aggregate value of the allowance if each judicial officer used it fully) by judicial officers of the Supreme Court is 48 per cent, by judges of the County Court is 64 per cent and by magistrates is 54 per cent. Given these levels of utilisation, there is no compelling case to change the current approach to the quantum of the allowance for judicial officers of the various courts, if the entitlement is limited to being a library allowance.

The Government will work with the Courts and the Judicial College of Victoria to improve professional development opportunities for judicial officers.

### **Recommendation 7**

The Panel recommended that the current requirement for heads of jurisdiction to seek the approval of the Attorney-General for overseas travel be replaced by an obligation for the heads of jurisdiction to notify the Attorney-General of overseas travel, and to further recommend to the Attorney-General who could act in their position during their period of absence.

Judges of the Supreme and County Courts, and magistrates should continue to seek approval of their respective Heads of Jurisdiction for overseas and interstate travel, as this is necessary for the proper administration of the justice system, and the efficient scheduling of business in the courts.

### Attorney-General's response

I intend to accept this recommendation with variations.

The recommendation would be consistent with the principle of separation of powers between the executive government and the judiciary. Due to the independence of the courts and the heads of jurisdiction, it is appropriate to remove the requirement for the Attorney-General to approve the head of jurisdiction's overseas travel. However, it is also desirable for the spending of public funds to be subject to appropriate accountability measures.

In addition to the requirement to notify the Attorney-General of overseas travel, it would also be appropriate for an overseas travel report to be published by the court, which includes:

- a. the nature and objectives of the travel; and
- b. the overall expenses incurred by the court.

I would like to take this opportunity to thank the Panel for their Report.



**THE HON MARTIN PAKULA MP**  
**Attorney-General**

DATE: 10.3.17