

**THE INDEPENDENT COMMISSION
FOR THE REMUNERATION
OF
PUBLIC OFFICE BEARERS**



**RECOMMENDATIONS
ON THE REMUNERATION
OF PUBLIC OFFICE BEARERS**

To: Mr TM Mbeki, the President of the Republic of South Africa

I have the honour to submit to you, in terms of section 8(4) of the Independent Commission for the Remuneration of Public Office Bearers Act, 1997 (Act No. 92 of 1997), the recommendations of this Commission following a major review of the remuneration structures and practices relating to all public office bearer positions in the Republic of South Africa.

Yours sincerely

Justice Dikgang Moseneke
Chairperson

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1. This comprehensive review of the remuneration of public office bearers is indeed as ambitious as it is opportune. It seeks to cover vast and new ground relating to the appropriateness of remuneration patterns inherited from our pre-democracy past. But also, it occurs at a time when South Africa reflects on ten years of democracy and in particular on the impact of the final Constitution on our collective quest for a just and democratic society in which there is good governance, respect for fundamental rights and freedoms and social justice for all.
2. The first decade of democracy has been a period of complex and intensive appraisal of public roles and governance. Because we now live in a mainly open society, it has also been a period of critical and public evaluation of whether public office bearers are properly fulfilling their given roles. More and more, and in different contexts, the public, civil society and sometimes the state itself seeks to hold accountable those who wield power in the name of the public. This leads inevitably to the question whether the remuneration arrangements of public office bearers are appropriately related or aligned to the broader objectives of our democracy.
3. Public office bearers, in turn, had to come to terms with and better understand their changed responsibilities and, in many instances, their new constitutional roles. As this country adopted an inclusive, open and democratic style of governance, indeed many public officials were new appointees to their jobs and therefore had to cope with the demands of office on the trot. On the other hand, it was not easier for many incumbents in public posts. They too had much to learn. They had to re-align their work experience to the entirely new deliverables of a society in transition. However, there was little time or inclination to pause and confront the inevitable challenge of matching the responsibility borne by public office bearers with equitable remuneration practices. Other and more pressing claims for social justice took precedence and muffled the overdue

debate on what are equitable remuneration arrangements for our public servants in the context of our society in the making. It may indeed be argued that in the face of dire poverty, unemployment, pandemic ill-health and vast economic disparities, public office bearers should not expect any further largesse. On the other hand, it is true that without properly resourced, committed and effective public officials, the good and socially just society our Constitution promises will, in time, become illusory.

4. It bears repetition that our Constitution is the supreme law of our country and requires that all spheres of government and all organs of state must fulfil the obligations imposed by it and must be loyal to the Republic and its people. The government and all other organs of state must perform their public duty in a manner consistent with the democratic values and the fundamental rights and freedoms enshrined in the Constitution and other law. The state through its office bearers must provide effective, transparent, accountable and coherent government that observes a high standard of professional ethics. The public office bearers must promote efficient, economic and effective use of public resources and they must adopt employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past and to achieve broad representation. It is therefore apt that, with the benefit of this experience and understanding gathered during the past decade, the Commission should review and make recommendations on the remuneration patterns and practices of public office bearers.
5. As we have seen, since the advent of constitutional democracy the roles and duties of public office bearers are required to undergo a radical change. Yet, it is indeed the first time that a review of the structure and levels of public office bearer remuneration in South Africa is undertaken. Our predecessors in earlier remuneration commissions have opted for successive cost of living adjustments rather than a comprehensive review of the remuneration of public office bearers. Our choice is different. But it

does mean that we are venturing into an uncharted terrain and if we were to lose or way the fault would be entirely ours.

6. The major review we have resolved to undertake has several principal objects. The first step is to gain insight into the objective content of the job of every public office bearer; that is the nature, powers and responsibilities the job entails, the complexity of the decisions required and their impact or influence at the workplace and in the broader public. To that end the Commission has compiled job profiles for all public office bearer positions individually or as part of a class. The second purpose of the review is to understand the relative content of the jobs. This implies a measure of ranking or grading of the respective jobs by their relative content, complexity, influence, seniority and status. The third and perhaps most complex principal task of this review is to find and adopt appropriate remuneration benchmarks; that is justifiable, transparent and objective yardsticks against which the actual levels of remuneration are compared and ultimately set at various levels of the graded positions. The fourth aim of this review is to introduce a total cost to employer remuneration regime which will render the overall annual salary bill on public office bearers transparent and predictable, whilst at the same time it will allow incumbents the flexibility to structure their remuneration packages according to their individual preferences.

7. Therefore, seen as a whole, this major review of public office bearer remuneration is aimed at furthering our constitutional democracy through effective governance practices. It is hoped that open and equitable remuneration arrangements, would in time lead to good government that, in turn, will accrue to the benefit of the broader public. Hopefully, public office will become established as a valuable and valued career option. At the same time a justifiable remuneration regime will contribute to combating corruption and other crime related to levels of remuneration, and allocation of ill regulated benefits and allowances.

8. Although these recommendations in some instances may carry with them increased costs, they are not aimed to enrich office-bearers, but rather to provide additional flexibility and choice, which the Commission believes to be important in attracting appropriate skills and talent to public office.

9. In the end the main objective of this major review is to establish a fair and transparent remuneration system for public office bearers, which best encourages viable public institutions and advances good governance which, in turn, will consolidate our constitutional democracy and other imperatives enshrined in our Constitution. All these ultimately will help ensure a better life for all in our land.

DEFINITIONS AND KEY CONCEPTS

10. At the outset it is necessary to define certain key concepts used frequently in this report and its recommendations.

PUBLIC OFFICE BEARER

11. In ordinary parlance a public office bearer may be a person who holds any public office in government. However, throughout this report the word “public office bearer” bears the narrow meaning assigned to it by legislation. The Independent Commission for the Remuneration of Public Office Bearers Act, 1997¹ (the Commission Act) and the Remuneration of Public Office Bearers Act, 1998² (the Remuneration Act) restricts our jurisdiction in respect of public office bearers to the following positions in public office:
 - The President and Deputy President;
 - Members of Cabinet;
 - Deputy Ministers;
 - Members of the National Assembly;
 - Permanent Delegates to the National Council of Provinces;
 - Members of the National and Provincial Houses of Traditional Leaders;
 - Traditional Leaders;
 - Premiers and Members of an Executive Council of a Province;
 - Members of a Provincial Legislature; and
 - Mayors and Members of a Municipal Council.

¹ Act 92 of 1997

² Act 20 of 1998

12. The Judicial Officers (Amendment of Conditions of Service) Act, 2003³ extended the statutory definition of office-bearers to include Constitutional Court Judges, Judges and Magistrates.

REMUNERATION

13. In this report the Commission considers remuneration to refer to the total monetary value of the salary, allowances and benefits of any office-bearer, as referred to in section 8(4)(a) and (b) of the Commission Act, 1997⁴, and which is to be clearly distinguished from “tools of trade” discussed below. In current remuneration arrangements benefits differ from one class of office bearers to another and in some instances the distinction between benefits and allowances becomes blurred. However, commonly benefits that may accrue to an office bearer may include pension, medical aid contributions and housing subsidy and a 13th cheque. On the other hand, allowances tend to be limited to travel, accommodation, subsistence and in rare cases, entertainment.

TOOLS OF TRADE

14. Section 8(4)(c) of the Commission Act, 1997⁵, requires the Commission to make recommendations on the resources which are necessary to enable an office-bearer to perform his or her functions effectively. These means or resources or tools which assist an office bearer to do her or his work properly are commonly referred as “tools of trade”. They do not form part of the remuneration package of an office bearer but are furnished and paid for by the state. Common example of tools of trade would include workplace equipment and support, means of communication and technology

³ Act 28 of 2003

⁴ Act 92 of 1997

⁵ Act 92 of 1997

(mobile phones, laptops and internet access), means of transport and access to security.

TOTAL REMUNERATION PACKAGE

15. The term total remuneration package refers to a composite, comprehensive and flexible remuneration package consisting of a set of core benefits and allowances, and a flexible portion, made up of:
 - Basic salary;
 - Medical aid;
 - Retirement funding;
 - Risk benefits (disability, life insurance); and
 - Flexible portion to be structured in accordance with individual needs.

16. The core characteristic of a total remuneration package is that it represents the total amount of all cash or cash equivalents paid to the employee as compensation (basic salary and certain benefits and allowances), but does not represent a total cost to employer. Ordinarily it does not permit hidden remuneration costs for the employer or undisclosed monetary benefits or allowances for the office bearer. For the purpose of this report total remuneration package has been interpreted as consisting of the following components:
 - Basic salary;
 - Motor vehicle allowance;
 - Employer's contribution to pension fund;
 - Employer's contribution to medical aid fund; and
 - Where applicable, a housing allowance, 13th cheque, and cellular telephone allowance has been included in the calculation.

HISTORY OF THE COMMISSION AND A BACKGROUND TO THE DETERMINATION OF PUBLIC OFFICE BEARER REMUNERATION

17. Well ahead of the advent of democratic government, the determination of the remuneration and conditions of service of the State President, the cabinet and members of legislative chambers of the time posed several challenges. The determination was often *ad hoc* and lacked transparency. However, the most significant problem was that ultimately the beneficiaries, who were political office bearers, set their own salaries, benefits and allowances. The beneficiaries formulated and passed legislation that fixed their salaries and work conditions. Often the legislation on remuneration would be preceded by an *ad hoc* commission established by parliament to enquire into and recommend revised remuneration. One such commission was the Schlebusch Commission of Inquiry which was established in 1985, by Parliament to inquire into the structure of the remuneration and conditions of service of the then State President, Ministers, Deputy Ministers, Members of Parliament and members of the President's Council.
18. Seemingly then there was a continuous need for major adjustments to the remuneration and conditions of service of public office bearers. A few years after the implementation of the Schlebusch recommendations, the Melamet Commission was brought into being to recommend a coherent remuneration structure for national and provincial legislatures. Some of the recommendations were adopted by legislation shortly before the advent of constitutional democracy.
19. The interim Constitution of 1993, sought to break this *ad hoc* and self-serving mould. Its provisions⁶ envisaged a permanent and independent commission to make recommendations to parliament, the provincial legislatures and local governments regarding the nature, extent and conditions of the remuneration and allowances of the members of all

⁶ Section 207 of the Interim Constitution

elected legislative bodies of the national, provincial and local governments, and members of provincial houses and the Council of Traditional Leaders. The Commission on Remuneration of Representatives was later established in terms of legislation.⁷ The Commission was to be chaired by a judge and it functioned from 21 April 1995 to 05 April 1998. Its first chairperson was Justice HW Levy who sadly passed on before the end of his term. On the 6 March 1996 Justice JH Steyn succeeded him as chairperson.

20. The advent of the 1996 Constitution entrenched the salutary notion of an independent remuneration commission to make recommendations on salaries, benefits and allowances. It also prescribes⁸ that legislation should establish a framework for determining the salaries, allowances and benefits, or upper limits thereof, as the case may be, of certain public office bearer positions. The executive may implement the framework only after considering any recommendations of the commission. An important feature of the legislative framework is that the President does not determine his own remuneration, but parliament does so after taking into consideration the recommendations of the Commission. In turn, the President in the light of the recommendations of the Commission sets the remuneration of members of parliament and of other members of the executive. The president also determines the remuneration of the judiciary after the approval of parliament.

21. The legislation envisaged by the 1996 Constitution is the Independent Commission for the Remuneration of Public Office Bearers Act, 1997⁹ (the Commission Act). It established the present Commission. Justice JH Steyn is the first chairperson to be appointed under the Act and he served from 21 August 1998 to 30 April 2000. Thereafter Justice RJ Goldstone served as chairperson until 31 March 2004. The current chairperson is Justice Dikgang Moseneke. He assumed office on 1 April 2004 and his term ends on 1 April 2009

⁷Commission on Remuneration of Representatives Act 37 of 1994

⁸Section 219 of the Constitution

⁹Act 92 of 1997

22. Both the Commission Act and the Remuneration Act¹⁰ define who are public office bearers, and in that way obliges the Commission to make annual recommendations on the salaries, allowances and benefits of the following office-bearers:
- The President ;
 - Deputy President;
 - Members of Cabinet;
 - Deputy Ministers;
 - Members of the National Assembly;
 - Permanent Delegates to the National Council of Provinces;
 - Members of the National and Provincial Houses of Traditional Leaders;
 - Traditional Leaders;
 - Premiers and Members of an Executive Council of a Province;
 - Members of a Provincial Legislature; and
 - Mayors and Members of a Municipal Council.
23. The Judicial Officers (Amendment of Conditions of Service) Act, 2003¹¹ however extended the statutory definition of office-bearers to include Constitutional Court Judges, Judges and Magistrates, in respect of which positions the Commission is now obliged to make annual remuneration recommendations.
24. **Table 1** below sets out the different public office bearer positions within the context of the arm of government under which it falls, as well as the sphere within which it operates.
25. **Annexure A** sets out the broad legislative framework under which the Commission operates.
26. As we have earlier indicated, the remuneration commissions which preceded the present one based their remuneration recommendations on

¹⁰ Act 20 of 1998

¹¹ Act 28 of 2003

historical baselines that existed at the time when the public office bearer positions came within the ambit of the commissions' respective mandates. In practice these different baselines led to significant disparities and often inequities in the structure of public office bearer remuneration. Predecessor commissions did not enquire into or report on the nature and extent of these remuneration disparities or make recommendations to eliminate them.

27. It is also necessary to consider whether the system of public office bearer remuneration has kept up with developments in remuneration practice generally. In the latter regard, one of the most important developments has been the increasingly powerful role of performance in remuneration, and a move towards more flexibility in the composition of individual remuneration packages in accordance with the different needs of individual incumbents. As early as 1999, the Commission recommended that remuneration should be translated to a "total package" structure, and in 2002 expressed the need for a project to review the entire remuneration structure. Since then the Commission has collected extensive data from studies directed at the implementation of a "total package" remuneration structure for public office bearers.
28. This Commission has indeed embarked upon and completed the initial project to review the entire remuneration structure of public office bearers as suggested by the 1999 Commission. What is clear from our constitutional and legislative provisions and from best practice within the Commonwealth is that the review and recommendation role of a remuneration commission is not a once off function but rather an ongoing one. In some instances a mere annual adjustment related to the cost of living increase prompted by inflation may well suffice. In others, as in the present case, a fundamental review leading to a structural change may be justified, particularly after a decade of far reaching re-definition of roles in public governance. Even in the instance of a fundamental review it may not be practicable to suggest all round change on all aspects of remuneration.

Matters such as pension and medical fund benefits are a function of the basic cash component of an office bearer's remuneration. Often one has to settle the cash component in order to arrive at a fair formula for determining pension or medical benefit, if any.

29. Similarly the means each job requires in order for it to be done effectively (so-called tools of trade) are best determined in the light of specific needs and peculiarities of each office assessed over time. In subsequent reports this or successor commissions will have to enquire into and make recommendations on matters not covered by the present major review such as "tools of trade" and in the light of recommendations which have been adopted and implemented.

Table 1: Public office bearer positions

	Executive Authority	Legislative Authority	Judicial Authority
National Level	<ul style="list-style-type: none"> • President • Deputy President • Minister • Deputy Minister 	<p>National Assembly</p> <ul style="list-style-type: none"> • Speaker • Deputy Speaker • House Chair • Leader of Opposition • Chief Whip: Majority Party • Parliamentary Counsel: President • Parliamentary Counsel: Deputy President • Chairperson of a Committee • Deputy Chief Whip: Majority Party • Chief Whip: Largest Minority Party • Leaders of Minority Parties • Whip • Member <p>National Council of Provinces</p> <ul style="list-style-type: none"> • Chairperson • Deputy Chairperson • House Chair • Chairperson of a Committee • Chief Whip • Whip • Permanent Delegates <p>National House of Traditional Leaders</p> <ul style="list-style-type: none"> • Chairperson: NHTL • Deputy Chairperson: NHTL • Member of NHTL 	<ul style="list-style-type: none"> • Chief Justice • Deputy Chief Justice • President of Supreme Court of Appeal • Judge of Constitutional Court • Deputy President of Supreme Court of Appeal • Judge of Supreme Court of Appeal
Provincial Level	<ul style="list-style-type: none"> • Premier • Member of Executive Council 	<p>Provincial Legislature</p> <ul style="list-style-type: none"> • Speaker • Deputy Speaker • Leader of Opposition • Chairperson of Committees • Deputy Chairperson of Committees • Chairperson of a Committee • Chief Whip: Majority Party • Deputy Chief Whip: Majority Party • Chief Whip: Largest Minority Party • Leader of Minority Parties • Whip • Member of Provincial Parliament <p>Provincial House of Traditional Leaders</p> <ul style="list-style-type: none"> • Chairperson: PHTL • Deputy Chairperson: PHTL • Member: PHTL 	<ul style="list-style-type: none"> • Judge President of the High Court • Deputy Judge President of the High Court • Judge of the High Court • President of the Divorce Court • Presiding Officer of the Divorce Court
Local Level	<ul style="list-style-type: none"> • Executive Mayor • Deputy Executive Mayor • Mayor • Deputy Mayor • Member of Executive Council • Member of Mayoral Council 	<p>Municipal Council</p> <ul style="list-style-type: none"> • Speaker • Whip • Chairperson of a sub-council • Municipal Councillor <p>Traditional Leaders</p> <ul style="list-style-type: none"> • King • Senior Traditional Leader • Headman 	<ul style="list-style-type: none"> • Special Grade Chief Magistrate • Regional Court President • Chief Magistrate • Regional Magistrate • Senior Magistrate • Magistrate

(Deloitte & Touche; 2006)

THE NEED FOR A REVIEW OF PUBLIC OFFICE BEARER REMUNERATION

30. Since the beginning of constitutional governance in 1994, the annual remuneration recommendations of the Commission were based largely on historical remuneration practices and levels. Then there was no overarching remuneration commission. Remuneration structures of public office bearers became divergent. The Commission considers it appropriate to review the current system for office-bearer remuneration, and to establish baselines and policy for office-bearer remuneration. The following considerations underscore the need for a review:

- It is important to confront the question whether the current system of public office bearer remuneration is properly aligned to the democratic aspirations of the Constitution and particularly whether the system facilitates effective, open, accountable and efficient public governance as required by the Constitution. In the process it is desirable to develop underlying principles and policy which will guide the Commission when it makes recommendations on remuneration.
- There is no comprehensive record of the purpose, duties, responsibilities, powers and activities attached to each position in the relevant institutions.
- There is a need for an exhaustive comparison of existing conditions of services, salaries, allowances and other benefits before and after tax deductions.
- There has been no evaluation and grading of posts of all public office bearers and therefore no common baselines have been set in respect of the entire public office bearer structure.
- At a more practical level it is necessary to determine whether public office bearer remuneration levels and practices have kept pace with developments in general remuneration practice and with economic determinants of remuneration levels generally.
- There has been no adequate comparison of posts with compatible positions in public administration, in organs of state, in state owned enterprises and within the private sector and with international comparators.

- Positions have been added at different times to the definition of “office-bearers”, without necessarily aligning their remuneration arrangements with those of other office-bearer positions.
- The practices in government institutions for the allocation of resources or means necessary to enable office bearers to perform their functions effectively (so-called ‘tools of trade’) vary widely.
- An ideal total cost to employer salary system and a process to convert the existing remuneration structure(s) or system(s) to a ‘total remuneration’ structure.

31. It is plain that no common baselines have been set in respect of the entire public office bearer structure and the comparative information is not always readily accessible or transparent. The development of the current office-bearer remuneration structure, based on historical baselines, has led to a number of significant inequities in the current remuneration structure. The comparison and analysis of existing benefits arrangements in **Table 2** below shows that significant differences exist across the institutions.

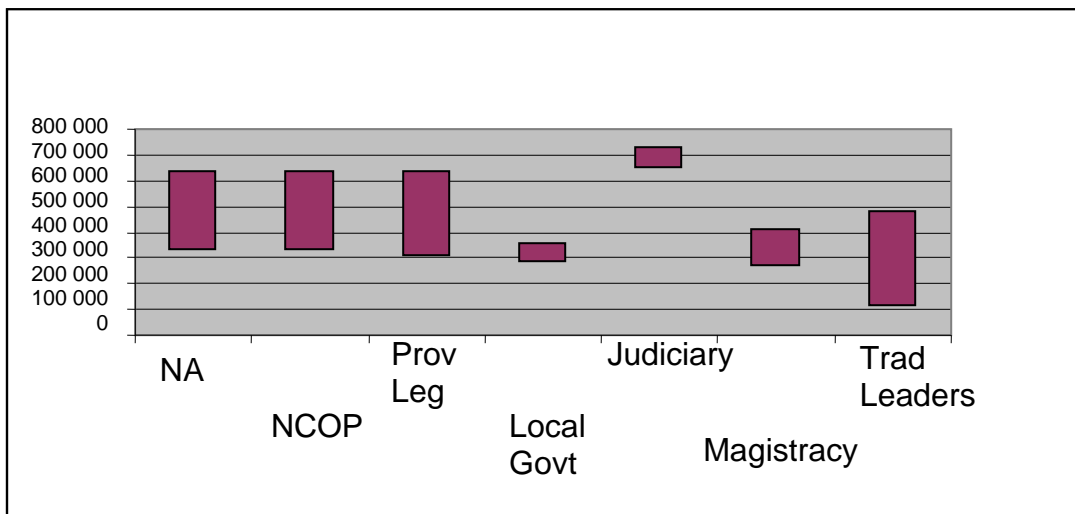
Table 2: Benefits per group of public office bearers

Benefits per group of Office Bearers								
Authority	Title	Basic	Pension	Medical Aid	Motor Allowances	Other Allowances	Home Owners Allowance	13 th Cheque
National Parliament: NA and NCOP	Speaker: NA Chairperson: NCOP Deputy Speaker: NA Deputy Chairperson NCOP House Chair CW: Majority Party Chief Whip: NCOP PC: President PC: Deputy President Leader of Opposition Chairperson of a Committee Dep CW: Majority Party CW: Largest Minority Party Leader of Minority Party Whip Member: NA Permanent Delegate NCOP	Y	Y	Y	Y			
Provincial Legislature	Premier Speaker MEC Deputy Speaker Chair of Committees Deputy Chair of Committees Leader of Opposition Chair of a Committee Chief Whip: Majority Party Deputy CW: Majority Party CW: Largest Minority Party Leader of Minority Party Whip MPL	Y	Y	Y	Y			
Local Council	Executive Mayor Deputy Executive Mayor Mayor Deputy Mayor Speaker MEC MMC Chairperson of Sub-Council Whip Municipal Councillor	Y	Y	Y	Y	Y	Y	
Judiciary	Chief Justice Deputy Chief Justice President of the SCA Deputy President of the SCA Judge of the Constitutional Court Judge of the SCA JP of High Court Deputy JP of the High Court Judge of the High Court	Y		Y	Y	Y		
Magistrates	Regional Court President Spec Grade Chief Magistrate Pres of the Divorce Court Regional Magistrate Chief Magistrate Pres Officer of Divorce Court Senior Magistrate District Magistrate	Y	Y	Y	Y		Y	Y
Traditional Leaders	King Chairperson: NHTL Deputy Chairperson: NHTL Chairperson: PHTL Deputy Chairperson: PHTL	Y						

(Deloitte & Touche; 2006)

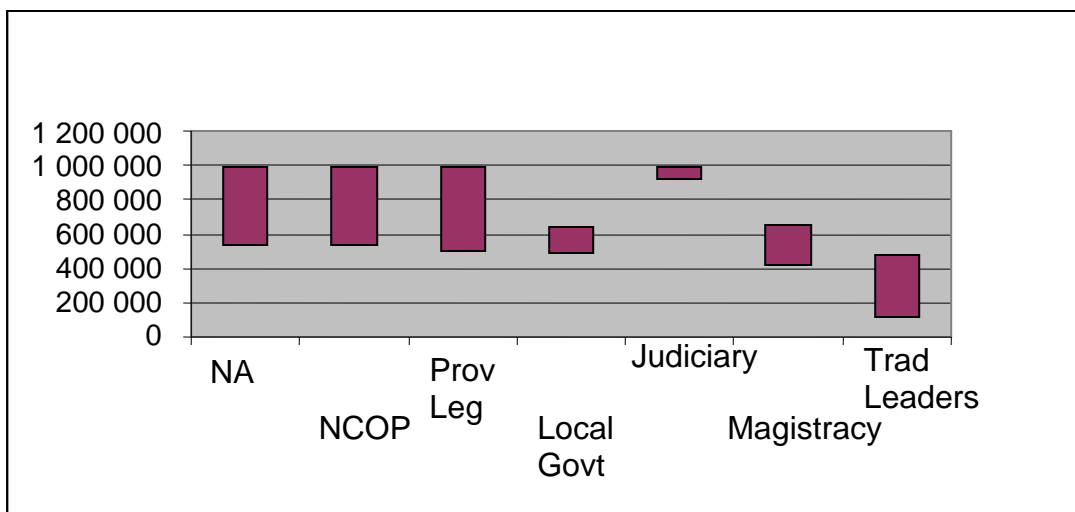
32. **Figures 1 and 2** below illustrate the current bands for the basic salaries and total remuneration packages respectively of each group of public office bearers. The bands demonstrate the difference between the lowest and highest basic salaries. As the traditional leaders do not receive any other guaranteed remuneration apart from the basic salaries, their bands are the same in both sets of graphical illustration.

Figure 1: Current remuneration bands for basic salaries



(Deloitte & Touche; 2006)

Figure 2: Current remuneration bands for total packages



(Deloitte & Touche; 2006)

33. There is no single, objectively demonstrable answer to the question of what is adequate compensation, in the light of many competing objectives and public interests that often call for compromises. When measuring total compensation, the most significant inequity in public office bearer ranks is likely to be found at the more senior executive, legislative and judicial levels. That is so because the biggest divergences between public office bearer pay line and pay lines in any other sectors occur not at the bottom but at the top end of the pay line. It is important to bear in mind that no single solution is however appropriate. The solution resides in a careful examination and weighing up of all factors relevant to the determination of a transparent, fair, defensible and effective compensation structure.

34. This review is the culmination of a three year project initiated by the Commission at the end of 2002. The review process gathered momentum in 2005 and 2006 when the Commission concluded its research in respect of the translation of public office bearer remuneration to a system characterised by total remuneration packages. It quickly became clear that much work had to precede the introduction of a comprehensive remuneration system for public office bearers.
35. In this review the Commission approached its task in four stages. First, the Commission sought to complete a pioneering but thorough job evaluation of all public office bearer positions by drafting comprehensive role profiles for each position. Secondly, the Commission ranked all public office bearer positions into appropriate grades that would represent a fair vertical and horizontal relationship with other positions. The third stage dealt with the benchmarking of public office bearer positions in the most appropriate manner to determine remuneration levels that would be both fair and equitable. In the fourth stage the Commission, having considered all the material and submissions, assessed and fixed actual pay levels for each public office bearer position.
36. Each of these stages of the review process is set out more fully below. **Table 3** below illustrates the activities and outcomes in respect of each of the phases of the project methodology utilised.

Table 3: The review process and outcomes

JOB EVALUATION	JOB GRADING	BENCHMARKING	TOTAL REMUNERATION PACKAGES	FINAL REPORT
<p>Activities</p> <ul style="list-style-type: none"> Structured interviews Submissions Primary data research Analyse, assess and evaluate jobs Confirmatory consultations 	<p>Activities</p> <ul style="list-style-type: none"> Expert grading by consultants Composite grading tool Compile draft grading tables Grading results consultations with stakeholders 	<p>Activities</p> <ul style="list-style-type: none"> Consider various benchmarking options Private sector Public sector State Owned Enterprises International comparatives 	<p>Activities</p> <ul style="list-style-type: none"> Conceptualisation and component design Pay level determination 	<p>Activities</p> <ul style="list-style-type: none"> Draft report Publication for comment Stakeholder road shows Statutory consultations Consider input Final report
↑	↑	↑	↑	↑
<p>Outcomes</p> <ul style="list-style-type: none"> Comprehensive job profiles for each office bearer position Established basis for grading 	<p>Outcomes</p> <ul style="list-style-type: none"> Vertically and horizontally integrated grading structures Basis for benchmarking 	<p>Outcomes</p> <ul style="list-style-type: none"> Comparative ranges for fair remuneration options 	<p>Outcomes</p> <ul style="list-style-type: none"> Total remuneration packages for all office bearer positions 	<p>Outcomes</p> <ul style="list-style-type: none"> Stated philosophy for office bearer remuneration Comprehensive job profiles Fair, transparent and flexible remuneration structure for office bearers

37. During the most critical period of the review, the Commission appointed consultants in 2005 to report on, amongst others:

- The evaluation and grading of all public office bearer posts.
- The appropriate remuneration, allowances and benefits to be paid to public office bearers, in line with applicable legislation; and
- The conversion of existing remuneration structure(s) or system(s) to a 'total remuneration' system/structure.
- An analysis of the purpose, duties, responsibilities, powers and activities attached to the various positions in the relevant institution.
- A description of the nature and scope of each position in the relevant institution.
- An analysis of existing conditions of service, salaries, allowances and other benefits before and after tax deductions, pertaining to the relevant institution.
- A comparison with compatible positions elsewhere.
- A comparison with positions of similar level in the private sector.
- The resources necessary to enable an office bearer to perform his or her functions effectively, with due regard to the constraints imposed by the South African economy.
- A comprehensive integrated remuneration structure for all office bearers.

- A comprehensive implementation plan and costing for the conversion to the “total remuneration” structure; and
 - Any additional recommendations.
38. The Commission, through its Secretariat, participated together with the consultants in all their engagements with stakeholders since June 2005, in order to direct the activities of the consultants, establish rapport with stakeholder groups, build up institutional knowledge, and establish the required basis for its own research in 2006 and beyond. The Commission conducted significant further research during 2006. This included finalising a philosophy of public office bearer remuneration, benchmarking remuneration against the public sector and international comparators, and designing remuneration package proposals that are fair, transparent and flexible.

JOB PROFILING

39. The primary aim of job evaluation is to determine the “intrinsic” worth of a job, based on a systematic assessment of the degree of complexity of a job’s content and its requirements. This is done independently of any pre-conceived standards of remuneration and without regard to the qualities and performance of the actual personnel who perform the jobs. Job evaluation examines the contents and requirements of jobs and measures these according to a standard procedure. This results in job grades, scores, levels or ratings whereby jobs can be compared with other jobs that have also been evaluated. Job evaluation therefore allows for a comparative analysis of jobs to be conducted. Public office bearer roles were evaluated and graded using the final role profiles that had been approved by stakeholder representatives from each group of public office bearers.
40. The Commission considered the formulation of comprehensive job profiles for each public office bearer position as the most critical starting point for

the evaluation and review of the remuneration structure in respect of public office bearers. No such job profiles existed at the start of this project. Comprehensive job profiles therefore not only had to be drafted from scratch, but also had to be agreed to by current incumbents in respect of every single public office bearer position. The Commission, assisted by its consultants, drafted the job profiles through a process of in depth consultation with incumbents. Structured interviews were held with representatives from all office bearer groups, and relevant documentation was examined, in order to draft comprehensive job profiles. This process was completed in September 2005 when representatives from all public office bearers stakeholder groups accepted these job profiles as being both correct and comprehensive, and agreed that it would be in order for the Commission to use these job profiles as a basis for determining an appropriate remuneration grading structure for all public office bearers. Copies of these job profiles are attached hereto as **Annexure D**.

41. The Commission and its consultants evaluated the roles profiled by adopting a composite evaluation methodology. A combination of the following methodologies was used:
- Peromnes and other job evaluation methodologies.
 - Benchmarking / "Anchoring" of jobs.
 - Inter and Intra-organisational checks.
 - Correlation of jobs to other widely used job evaluation systems (see correlation table in paragraph 57 below).
 - Existing objective criteria used to distinguish job sizes. For example, hierarchies of courts for the judicial institutions, the reach of impact and influence within the National Assembly, the National Council of Provinces, Provincial Legislatures and Local Government. This principle informed the Commission's understanding of the differences between jobs.
 - The relative positioning of roles within the institutional framework was evaluated against the criteria of protocol, status and institutional relativity.

42. The Peromnes system was used as the foundation of the role evaluations, but was extended with factors unique to each of the public office bearer institutions. The job evaluation and grading results were furthermore correlated to a number of other off the shelf evaluation systems to establish an acceptable consistency rate.

JOB GRADING

43. Job grading is the rating of jobs according to a specifically planned procedure in order to determine the relative worth of each job. Once the size of the job has been determined within the organisation, this job should be benchmarked against market data to determine the grade the job carries and the price that is being paid in the open labour market. Job evaluation also allows for jobs to be related to each other in terms of their intrinsic worth, and hence to determine relative complexities of different jobs and a rational job structure within an organisation.
44. The initial evaluation and grading that was done was recommended by Deloitte & Touche, as consultants to the Commission. They made use of four job evaluation systems:
- **Peromnes**, is arguably the most widely used job evaluation system in South Africa. It was originally developed in the 1960's, and owned by FSA (a Human Resource Consultancy). Since the mid 1970's, it has been extensively developed over time and was first offered as a computerised version in the mid 1990's. It has a client base of 300-400 and supports an extensive salary survey which is part of the "National Remuneration Guide".
 - **Tuned Assessment of Skills and Knowledge (T.A.S.K.)** was developed by FSA in the early 1980's. This system was designed to compete with the Paterson system and accordingly has been mainly sold to Paterson users as a value added system. There is thus some market differentiation between TASK and Peromnes. In general they are not considered competing

products although they do provide the client with some choice. TASK is also available as a computerised version and in total has about 100 clients.

- **Execeval** is an executive evaluation system originally developed from Hay principles and used exclusively as a consulting tool. The system has its own executive pay database to provide market remuneration for executive level positions (Peromnes grade 4 and higher). The system is not sold to clients who, in some cases, are not even aware of its application in a consulting assignment. The client base numbers are about 150. The system is a useful tool in the “market pricing” area of executive pay, particularly for those organisations/jobs that do not fit easily into Deloitte’s Guide to Executive Remuneration.
- **Skills and Knowledge Analysis (SKAN)** is a competency based approach to job evaluation. This system is effectively a shell in which competency based grading and job family/skills descriptions may be incorporated. The system was developed in-house by the FSA-Contact IT team and has been used by a number of larger corporate clients. It requires a project based approach where the Deloitte Consultants and the client jointly develop the content of the system.

45. It became clear that the application of a singular or “off-the-shelf” job evaluation system would not suffice in addressing the complexities, influence and impact of the roles of office-bearer in South Africa, as a number of roles fall outside of a traditional business-oriented perspective. In response to these concerns the consultants then used a combination of methodologies in addition to the standard four job evaluation systems discussed above. The Peromnes system, which was used as a foundation for evaluation, uses the factors listed in **Table 4** below to evaluate jobs.

Table 4: Peromnes job evaluation factors

	Factor	Explanation
1	Problem Solving	Assesses the complexity of problems in the job by examining the clues or information available and the alternative solutions that can be applied.
2	Consequence of Judgement	Assesses the consequence of judgements, decisions and recommendations, i.e. the limits of discretion of the job.
3	Pressure of work	Assesses the pressures imposed on a job by: <ul style="list-style-type: none"> • Variety and type of work to be achieved in available time. • The need to set priorities to do the most appropriate work at the most appropriate time. • Interruptions and distractions due to inter-action with the needs of other jobs.
4	Knowledge	Assesses the level of knowledge required to perform the tasks competently.
5	Job Impact	Assesses the extent of influence that the job has on other activities, both within and outside the organisation.
6	Comprehension	Assesses the level of understanding of spoken and written communication required in the job.
7	Education	Assesses the minimum education required of a competent incumbent for entry to the job.
8	Training / Experience	Assesses the typical period required to achieve competence in the job by the quickest reasonable route after the minimum education level assessed in factor 7.

(Deloitte & Touche; 2006)

46. **Table 5** below sets out the correlation amongst different job evaluation methodologies, with specific reference to the decision and task skills levels required at each level within those methodologies.

Table 5: Correlation Table – Equate, Paterson, Peromnes and Task Grades

Paterson Grades	Paterson Bands	Peromnes Grade	Equates Grades	Task Grades	Decision Level	Task Skill Level
F4	FU	1++		26	<ul style="list-style-type: none"> • Top Management – Board Level • Policy Making Decisions 	
F3		1+		25		
F2		1	16	24		
F1	FL	1	16	23	<ul style="list-style-type: none"> • Senior Management • Heads of Major Functions • Programming Decisions 	
E4	EU	2	16	22		
E3		2	15	21		
E2	EL	3	15	20	<ul style="list-style-type: none"> • Professionally Qualified and Experienced Specialist • Middle Management • Interpretative Decisions. 	Tactical: <ul style="list-style-type: none"> • Middle Management • High Level – Advisory / Supervisory
E1		3	14	19		
D5	DU	4	14	18	<ul style="list-style-type: none"> • Skilled, Technical and Academically Qualified Employees • Junior Specialists • Supervisors • Foremen • Superintendents • Routine or Process Decisions 	Specialised: <ul style="list-style-type: none"> • Skilled • Technical • Specialist • Senior Supervisory
D4		5	13	17		
D3		5	13	16		
D2	DL	6	12	15	<ul style="list-style-type: none"> • Discretionary / Operative Decisions 	Discretionary: <ul style="list-style-type: none"> • Semi-skilled • General – Clerical / Operational • Junior Supervisory
D1		7	11	14		
C5	CU	7	11	13	<ul style="list-style-type: none"> • Defined Decisions 	Basic: Basic-skilled
C4		8	10	12		
C3		9	9	11		
C2	CL	10	8	10		
C1		11	7	9		
B5	BU	11	7	8	<ul style="list-style-type: none"> • Discretionary / Operative Decisions 	Discretionary: <ul style="list-style-type: none"> • Semi-skilled • General – Clerical / Operational • Junior Supervisory
B4		12	6	7		
B3		13	5	6		
B2	BL	13	5	5		
B1		14 / 15	4	4		
A3	A	16	3	3	<ul style="list-style-type: none"> • Defined Decisions 	Basic: Basic-skilled
A2		17	2	2		
A1		18 / 19	1	1		

(Deloitte & Touche; 2006)

47. At the end of their evaluation of job profiles of all public office bearers consultants Deloitte & Touche recommended the grading results reflected in **Annexure E.**

48. These grading results were, however, compiled mainly with reference to Peromnes factors which were considered to be inappropriate in some instances. After a direct consultation with all stakeholders it became clear that the Peromnes methodology would not be well suited for the evaluation and grading of public office bearer positions. The Commission thereafter developed a grading structure which it believes to be more appropriate for the public sector, drawing from the strengths of other grading systems

studied by the Commission. Following the establishment of comprehensive and accepted job profiles for all public office bearer positions, the Commission graded all public office bearer positions into a hierarchical structure that is both vertically and horizontally integrated, fair and equitable. The proposed grading structure was discussed with all public office bearer groups at communication events of the Commission in December 2005 during which valuable input was gathered for consideration in the Commission's final review report. After due consideration of all input and other factors, the Commission has drafted a proposed grading structure for all public office bearer positions as set out in **Annexure F**.

49. **Annexure F** sets out the consolidated grading tables in respect of:
- Current grading tables;
 - Consultants' grading recommendations;
 - Updated grading tables after considering stakeholder input; and
 - Recommended grading tables.

BENCHMARKING

50. The Commission considered various options for the appropriate benchmarking of public office bearer positions against comparable public and private sector positions, both locally and internationally. It was necessary for the Commission to consider whether it would be most appropriate to benchmark public office bearer positions against comparable private or public sector positions. In this regard the Commission engaged with all public office bearer stakeholder groups and relevant international bodies. The recommendations contained in this report are based on what the Commission, after consideration of all the submissions made to it, found to be the most appropriate benchmarking for each public office bearer group and position.

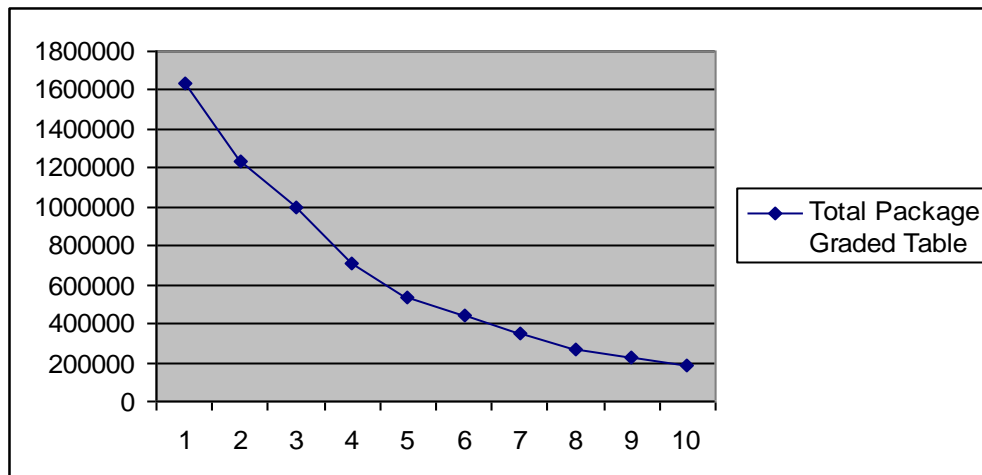
51. Two different benchmarking methodologies were considered, namely a “Graded Benchmarking Methodology” and a “Graded Pay Relativity Methodology”.
52. The “Graded Benchmarking Methodology” entails the use of job evaluation results to benchmark positions on a job grade basis. Graded remuneration tables from the *Deloitte National Remuneration Guide* (September 2005) was used as the basis for determining remuneration levels on a job grade basis, for purposes of comparison with the private sector. A grid size “E” private sector organisation was considered to be the most appropriate comparator for public office bearer positions and was used to determine the graded tables to be used for comparator purposes in this methodology. A grid size “E” organisation has the following characteristics:
- Staff numbers of between 500 and 800;
 - Total cost of employment salary bill between R109 million and R223 million;
 - Total assets of between R400 million and R800 million; and
 - Typical annual pre-tax profits of between R29 million and R59 million.
53. **Table 6** and **Figure 3** below have been aged to April 2007 to ensure that the comparison is relative to the where the National Market pay position was located during that time.

Table 6: Graded table for Grid Size E organisation: April 2007

Peromnes Grade	Total Package Graded Table
1	1 639 260
2	1 237 220
3	993 784
4	704 767
5	531 919
6	437 823
7	353 345
8	268 011
9	225 136
10	181 091

(Deloitte & Touche; 2007)

Figure 3: Graded graph for Grid Size E organisation: April 2007



(Deloitte & Touche; 2007)

54. The Commission conducted further benchmarking exercises during 2006 with reference to the total remuneration paid to senior executives in the South African public service and senior executives in government institutions supporting constitutional democracy. **Tables 7 and 8** below set out the total remuneration packages used in this regard for benchmarking purposes.

Table 7: Total remuneration packages for senior public executives: January 2007

Position	Total salary package
Governor of the Reserve Bank	2 830 000
Auditor General	1 708 600
National Director of Public Prosecutions	984 072
Public Protector	950 000
Director General	922 491 – 993 492
DDG	717 045 – 772 173
Chief Director	591 510 – 636 939
Director	502 725 – 541 284

(www.dpsa.gov.za)

Table 8: Remuneration packages: CEO's of State Owned Entities: 2006

Organisation	Guaranteed Portion	Performance Reward	Total Remuneration
Transnet	4 009 000	2 886 000	6 895 000
South African Airways	5 000 000	1 850 000	6 850 000
Denel	3 129 000	3 125 000	6 254 000
Telkom	2 160 422	3 442 573	5 602 995
Eskom	4 250 000	952 000	5 202 000
Industrial Development Corporation	3 185 328	1 682 861	4 870 000
Land Bank	2 006 040	1 000 000	3 006 040
PetroSA	1 962 000	850 000	2 812 000
Council for Industrial and Scientific Research	1 704 000	847 000	2 551 000
Central Energy Fund	1 456 000	33 000	1 501 000
South African Tourism	1 220 899	1 435 399	1 435 399
SABC (8 months)	1 487 000	0	1 487 000
Financial Services Board (9 months)	1 652 011	172 533	1 824 544
Post Office (8 months)	1 440 000	0	1 440 000
Public Investment Commission	1 883 000	58 000	1 940 000
Independent Development Trust	1 420 000	183 000	1 603 000
International Marketing Council	1 354 000	185 000	1 539 000
National Empowerment Fund	1 287 740	637 500	1 400 000
National Lotteries Board	910 000	174 000	1 078 000
FAIS Ombudsman	909 500	0	909 500

(2006 Annual Reports)

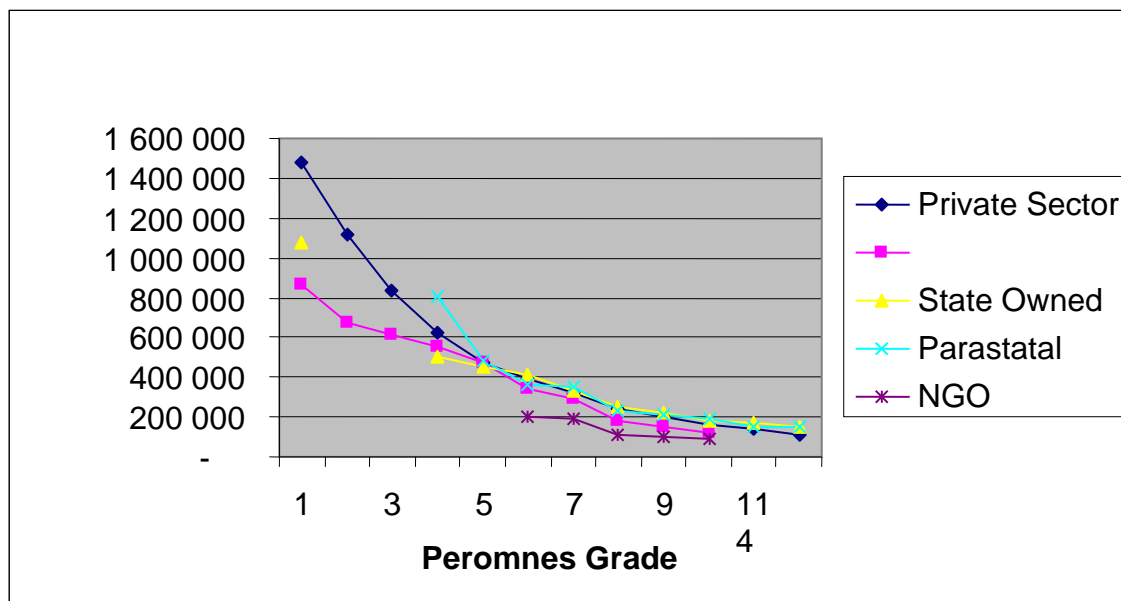
55. **Table 9** below reflects the current remuneration levels 1 to 12 in respect of public servants in South Africa, as at January 2007. **Figure 4** below illustrates the pay analysis across private sector, public sector, state-owned entities, parastatals and non-governmental organisations (NG)'s).

Table 9: Public service remuneration: January 2007

SALARY LEVEL											
Salary notches										Inclusive packages	
1	2	3	4	5	6	7	8	9	10	11	12
35,916	40,227	46,200	54,222	64,143	79,407	98,916	122,841	146,685	183,084	286,203	339,825
36,273	40,632	46,665	54,765	64,785	80,208	99,903	124,074	148,143	184,911	289,068	343,224
36,633	41,034	47,133	55,311	65,433	81,006	100,905	125,319	149,628	186,762	291,957	346,659
36,999	41,445	47,607	55,863	66,087	81,822	101,913	126,567	151,128	188,634	294,879	350,127
37,365	41,865	48,078	56,424	66,747	82,635	102,933	127,836	152,640	190,515	297,831	353,631
37,740	42,282	48,561	56,985	67,413	83,463	103,959	129,108	154,167	192,423	300,813	357,168
38,115	42,699	49,050	57,558	68,088	84,297	105,000	130,401	155,706	194,349	303,822	360,741
38,496	43,131	49,539	58,131	68,769	85,137	106,050	131,703	157,263	196,287	306,861	364,350
38,880	43,560	50,034	58,713	69,459	85,992	107,109	133,023	158,835	198,252	309,933	367,995
39,273	43,992	50,532	59,304	70,152	86,853	108,180	134,349	160,419	200,235	313,032	371,676
39,660	44,439	51,039	59,895	70,854	87,720	109,260	135,693	162,027	202,236	316,161	375,393
40,059	44,883	51,552	60,492	71,562	88,593	110,358	137,049	163,647	204,261	319,323	379,149
		52,062	61,098	72,279	89,484	111,459	138,420	165,285	206,301	322,521	382,944
		52,584	61,707	73,002	90,378	112,575	139,806	166,938	208,365	325,749	386,772
		53,109	62,325	73,731	91,281	113,703	141,204	168,606	210,447	329,007	390,642
		53,640	62,946	74,472	92,193	114,843	142,617	170,295	212,550	332,298	394,554
				75,216		116,154		171,813			
								177,198			

(www.dpsa.gov.za)

Figure 4: Pay Analysis across Continuum



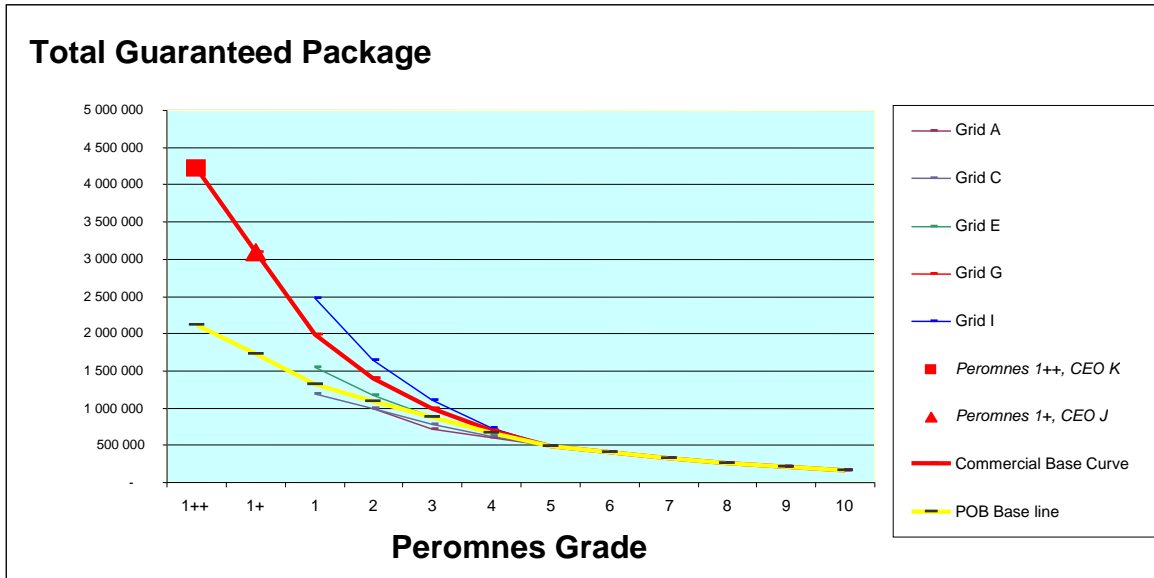
(Deloitte & Touche, 2006)

56. The “Graded Pay Relativity Methodology” proposes determining an anchor public office bearer pay line relative to the private sector. All public office bearer positions are then located relative to this determined pay line on a graded basis. This relativity will then be applied on an annual basis for benchmarking purposes. This process methodology is as follows:

- Create a commercially oriented pay curve from Peromnes 10 through to Peromnes 1++.
- Determine the discount to commercial pay that is to be applied at Peromnes 1++ to establish an anchor pay point.
- From Peromnes 4 to Peromnes 1++ create a target pay curve which is anchored by the Peromnes 1++ pay point. This will be identified as the public office bearers pay curve.
- From the pay data that underpins the consolidated pay curve, establish the pay relativity between Peromnes 1++ and all other Peromnes grades.

57. **Figure 5** below illustrates the public office bearer pay curve relative to the national market, in terms of the Graded Pay Relativity Methodology recommended to the Commission by its consultants, based on the grading results contained in **Annexure E**.

Figure 5: April 2006 pay curves



(Deloitte & Touche; 2006)

58. Following this methodology the public office bearer pay curve was determined at the levels relative to an anchor position as indicated in **Table 10** below.

Table 10: Public office bearer pay line relative to an anchor position

Peromnes Grade	Commercial Pay Base Curve	Public Office Bearer Pay Line	Relativity to overall anchor
1++	4 224 000	2 112 000	100%
1+	3 100 462	1 722 479	82%
1	1 983 147	1 332 098	63%
2	1 401 168	1 089 797	52%
3	989 970	879 973	42%
4	699 452	660 594	31%
5	494 186	494 186	23%
6	412 707	412 707	20%
7	332 761	332 761	16%
8	252 639	252 639	12%
9	209 780	209 780	10%
10	170 543	170 543	8%

(Deloitte & Touche; 2006)

LEVELS OF REMUNERATION PACKAGES

59. It is important that the correct pay levels are set for each institution, as this will ultimately determine a target rate of pay for every public office bearer that is employed by the institution. If the target pay levels for the public office bearers are too high the various institutions will run the risk of overpaying and creating an unnecessary financial burden. If target levels of pay are too low the various institutions will run the risk of losing critical skills.

60. The purpose of an anchor position is to allow for an analytical focus on a particular job grade in order to build the entire compensation system around it. As such, job grading should allow an easily comparable set of skills and a sufficient number of subjects to allow an objective comparison and statistical stability in the number of data-points. The role of the anchor should not be so specialised and unique that it does not easily enable comparison to any other job. Moreover, if there is only one incumbent in the anchor position, the set of skills, requirements and capacities are so rare that they do not lend themselves to easy comparison with any other comparable private or public sector role. This adds unnecessary instability and subjectivity to the remuneration determination process. It would make sense to set the anchor where it has the highest financial impact. Although the President has the highest salary, the decision around his pay in and of its own does not have the highest impact on the fiscus. This weight of numbers at the lower levels of the legislature, albeit at a lower salary level, has a much higher impact.

61. It is clear that best practice internationally, as gathered during the Commission's international comparative studies, is not to use the position of the President as the anchor. This is because of political issues and sensitivities attached to this position.

62. Where the anchor is set at the bottom level, the nominal increment over and above this could easily be linked to specific performance requirements. Although the Commission does not believe that such a system could be implemented currently, it is certainly its aim to move towards such anchoring in future when issues detracting from the stability of bottom level positions have been resolved.
63. Choosing an anchor position involves the following mechanical steps:
- Defining the role;
 - Getting appropriate benchmarks;
 - Determining the anchor salary;
 - Reviewing the percentage gaps; and
 - Applying the percentage gaps through the grading scale.
64. It is important to establish pay levels, and a pay line for the relevant institution, with the additional aims of pay line consistency and aspiration to higher levels in mind.

65. The Commission engaged stakeholders from all public office bearer groups throughout its review project, not only to gather relevant information, but also to test different philosophies and suggestions developed at different times. In this regard the Commission, had direct consultations with public office bearers, received numerous submissions, completed international comparative studies, invited public comment and considered a number of consultant reports.
66. The Commission is indebted for these valuable submissions which have all been considered duly in the process of making the recommendations contained herein. A list of the submissions received and considered by the Commission appears as **Annexure D**. In addition, the Commission consulted a number of resources during its own research process, of which details appear in **Annexure E**.
67. The Commission also gained some valuable insights from similar institutions and practices in other countries. This lends international credibility to the research and affords a more comprehensive basis for the determination of fair and equitable remuneration levels for South African public office bearers. In addition to desktop research in respect of the remuneration of public office bearers in the countries listed below, the Commission conducted formal study tours to Australia, Canada and the United Nations:
- United States of America;
 - United Kingdom;
 - Botswana;
 - Germany;
 - India;
 - Nigeria;
 - Finland; and
 - Indonesia.

68. The Commission's function is not limited to addressing the issues raised and presented by participants. It can and does retain the assistance and advice of its own experts. It analyses information itself and develops its own recommendations without fear, favour or prejudice.
69. The paragraphs below set out briefly the extent of submissions made to the Commission on behalf of all three arms of government in response to a series of philosophical questions posed to it by the Commission, and some valuable lessons learnt by the Commission in its search for international best practice in the field of public office bearer remuneration.

[SUBMISSIONS MADE BY THE THREE ARMS OF GOVERNMENT](#)

70. In addition to direct engagements with stakeholder groups, the Commission posed a list of philosophical and fundamental questions to each of the three arms of government for consideration and response. The Commission is indebted for their high quality and valuable submissions in this regard. The essence of the principles eluded to in each of those submissions are recorded below.

[NATIONAL EXECUTIVE](#)

71. An assigned group of Ministers, headed by the Minister of Finance, submitted the following five guiding principles in respect of the restructuring of a public office bearer remuneration dispensation:
- All public office bearers should receive fair and equitable remuneration in accordance with their respective responsibilities;
 - The remuneration structure should be clear and transparent to facilitate comparisons both within and across institutions;
 - The public service Senior Management Service (SMS) should be used as benchmark for determination of public office bearer remuneration;

- The remuneration of the President should be the overall anchor for a public office bearer remuneration structure; and
 - Proposed adjustments should be clearly and carefully motivated, and should be linked to identified deficiencies in the present structure.
72. Their submission suggested that the position of the President should be the overall anchor position for the public office bearer remuneration and that anchor positions for each branch of government should be related to it. The suggested institutional anchors should be:
- Judiciary : Chief Justice
 - Legislature : Speaker of the National Assembly
73. It was further suggested that simple benchmarking against either public or private sector positions would not be appropriate, but may be useful to compare political office bearer remuneration with that of SMS members in the public service. Total Remuneration packages should therefore be developed for public office bearers that incorporate all of the components available to SMS members.
74. The Ministerial Committee took the view that current public office bearer remuneration was adequate, but that targeted adjustments to the upper level of public office bearer positions were required to correct current inequities. It emphasized that one of these inequities was the level of compression of salary levels within the judiciary.
75. Although there is a need for consistency in according appropriate “tools of trade”, an institution-by-institution investigation was required to determine unique institutional requirements.
76. The submission advises of an Additional Service Benefit (ASB) pension scheme in terms of which political office bearers who left office between 1994 and 2004 would receive a gratuity of up to two times the member’s pensionable salary. The ASB would also provide adequate pension benefits

for political office bearers leaving office in 2009, and for those elected to office in 2004.

77. The submission acknowledges that the current remuneration structure for public office bearers is not transparent, is fraught with problems, and does not lend itself to vertical or horizontal comparisons. It recommends that a grading structure should be based on proper job evaluations and should guard against compression within certain institutions.
78. The submission supports a move towards establishing an all-inclusive remuneration package for all public office bearers, which should be flexible enough to allow members to structure their packages according to their individual needs.

LEGISLATURE

79. Parliament constituted a workgroup to consider the questions posed to it by the Commission, and to make a singular and comprehensive submission in relation to those questions and other relevant issues. The Commission is indebted for a most impressive, professional and comprehensive submission. The following broad principles were suggested to guide an approach to the remuneration of Members of Parliament:
 - Parliament is elected to represent the people and to ensure government by the people under the Constitution, and to represent the provinces in the national sphere of government;
 - Parliamentarians are key decision makers, custodians of democracy and protectors and promoters of human rights;
 - Parliamentarians are important role players in ensuring good governance, and the upholding of democratic values and principles;
 - The doctrine of separation of powers juxtaposed with the system of cooperative government and shared powers and functions of the three arms of government denote a governance system comprising independent institutions whose functions and operations are distinct but nonetheless

interrelated and interdependent. There is therefore no vertical comparison (hierarchy) amongst the three arms of government, but rather their status, roles and functions are horizontally comparable;

- The roles and functions of Parliamentarians require the attraction and retention of multi-skilled public representatives that are committed to the socio-economic transformation and development of South Africa and Africa at large, and who are able and willing to avail themselves on a full-time basis;
- The remuneration of public office bearers should reflect the value placed by South African society on our representative Constitutional democracy and in our democratically elected institutions and public representatives;
- As public representatives, Members are expected to act in the interests of the public with absolute integrity and to uphold the values and principles of the Constitution and the highest standards of public service and ethical conduct. In so doing, Members of Parliament must be readily accessible to the public on a full-time basis;
- The remuneration of Members of Parliament should be congruent with their levels of responsibility and job impact both nationally and internationally;
- The total remuneration of Members of Parliament should be open and transparent; and
- Remuneration packages of Members of Parliament should be flexible to recognise their diverse roles, functions and work environments.

80. In considering benchmarking options for the determination of appropriate remuneration of Parliamentarians, three options emerge:

International comparisons

81. Comparative research may prove useful in exploring some of the underlying principles and philosophies guiding remuneration, but would have limited value for benchmarking as socio-political contexts and governance systems vary considerably amongst different countries.

Fixed ratios to pre-determined public or private sector positions

82. It would be inappropriate to benchmark the remuneration of public representatives against private sector positions. Determining the level of public office bearer remuneration against comparable public service positions would also add little value. Public servants within the government administration do not have political accountability to the electorate.

Remuneration relative to specific anchor position(s)

83. Linking remuneration of public office bearers relative to an anchor position(s) would be the most appropriate benchmarking option. The identification of an anchor position(s) should reflect the internal hierarchy, the separation of powers and shared powers across the three arms of government.

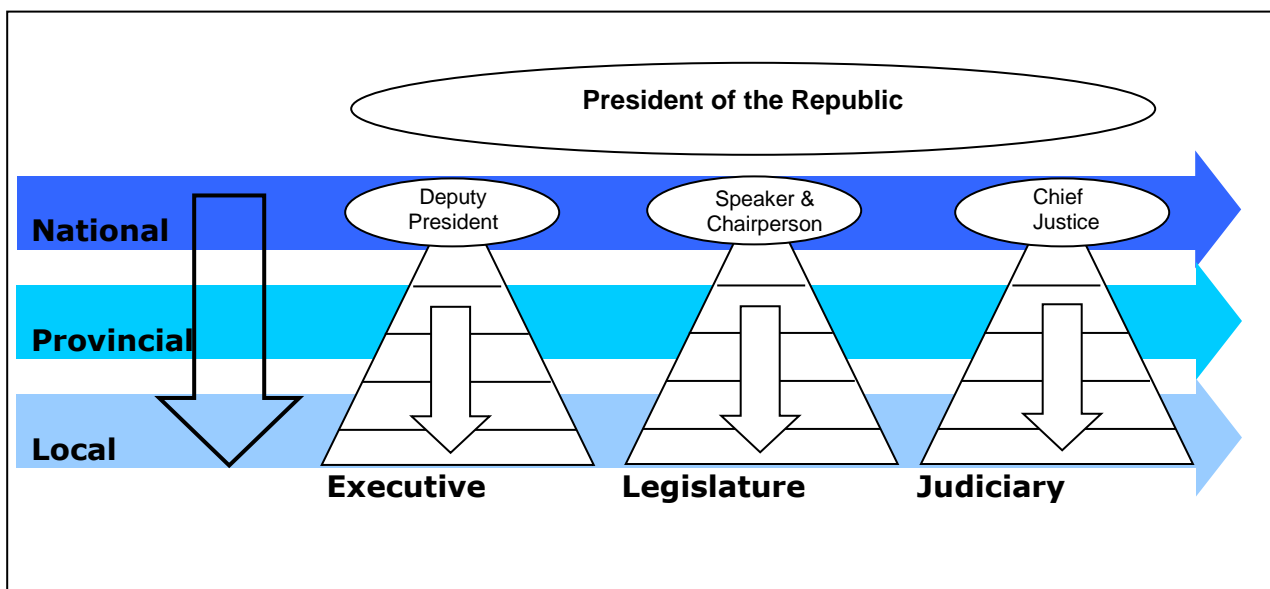
84. In the context of three separate but equal arms of State with exclusive as well as shared roles and functions, the equal remuneration of anchor positions in each arm would be one of the most important considerations in maintaining the balance of power necessary for such a system to work effectively. The specific hierarchies within each arm, based on the specific powers, roles, functions and job impact of the different public office bearer positions should in turn form the basis for the determination of remuneration relative to the specific anchor position.

85. The determination of the appropriate grade and remuneration of the anchor positions (i.e. benchmarking the anchor positions) should be informed by the specific status, powers, roles, functions and job impact of the anchor position(s). Benchmarking exercises for these anchor positions should also consider a cross section of positions of comparable seniority in the public and private sectors and international practice.

86. The following specific proposals were made in this regard:

- The unique position of the President as Head of State and head of the National Executive should be elevated to a position above and de-linked from all other State structures.
- Each arm of State should have an anchor position for the benchmarking of remuneration of public office bearer positions in accordance with the internal hierarchy of the arm. The following anchor positions could be considered:
 - Executive: The Deputy President
 - Parliament: Speaker of the NA and Chairperson of the NCOP
 - Judiciary: Chief Justice
- In keeping with the equal status of the three arms of State elaborated in the preceding sections of this submission, the grading and remuneration of the anchor positions should be equal across the three arms of government, as depicted in **Figure 6** below.

Figure 6: Proposed anchor positions in the three arms of State



(Parliamentary submission; 2006)

87. It was proposed that the Commission develop a formal job evaluation grading system for public office bearer positions for future application, in which it could use a combination of the factors listed in **Table 11** below.

Table 11: Suggested job evaluation factors

Job Evaluation System				
JE Manager	Equate	Hay	Peromnes	Paterson¹²
Theoretical knowledge and application / Acquisition and application of knowledge	Knowledge	Know-how	Problem solving	Defined decisions
Skills acquisition and practice	Responsibility	Problem solving	Consequences of judgement	Automatic decisions
Judgement	Thinking demands	Accountability	Pressure of work	Routine decisions
Leadership / planning and management	Communication and contacts	Abnormal physical conditions	Job knowledge	Interpretive decisions
Communication	Environment		Job impact	Programming decisions
Job impact				Policy making decisions

(Parliamentary submission; 2006)

88. The core principles that should be applied in determining the appropriate ratio between the remuneration of the anchor position and the lowest position in the hierarchy and between the consecutive positions in the hierarchy are:

- The ratio should reflect the smallest acceptable difference between the anchor position and the lowest position. This is in keeping with the contemporary view of flat organisational structures, particularly within bureaucracies; and
- There should be an acceptable degree of consistency between the ratios of consecutive positions in the hierarchy except where the jobs carry markedly different powers, roles, functions and responsibilities.

89. Retirement benefits for political office bearers have always been a bone of contention. The present pension fund for Members of Parliament is known

as a “defined contribution fund”. What is defined is the contribution by the member and the contribution by the employer, in this case the State. Even though the State’s contribution of 22.5% can be seen as adequate it only applies for as long as a member remains a member.

90. The submission proposes that members should receive pension benefits in terms of an upward sliding scale on the basis of the length of tenure of the office-bearer, as well as a gratuity upon termination of office.
91. The submission includes an international comparative overview of the remuneration and benefits of Members of Parliament, attached to this report as **Annexure L**. This submission was taken into consideration as part of the Commission’s research on international office-bearer remuneration practices.

JUDICIARY

92. The primary submission postulated by the judiciary is that they are under-paid and have been so for a long time, which makes a judicial appointment ever less attractive.
93. The judiciary is a separate arm of government with unique characteristics. There must be an appropriate correlation between judicial remuneration and the salaries paid in private practice. Consideration must also be given to the professional qualifications required for a position in the judiciary. Although it is accepted that a judicial salary should be “discounted” for public service, the discount should not be so great that it becomes a disincentive to a suitable and competent person for appointment in the position.
94. Generally speaking, salary structures should be such as to attract suitable persons with the required competence and experience. There is no single,

proper comparative according to which the judicial salaries can be determined, and it is difficult to evaluate positions in the judiciary by using conventional job evaluation methods. The judiciary is not an organisation where a judge follows a particular career path. All judges do essentially the same “job”. Although benchmarking against the private sector may not be appropriate, it is still important to consider the different salary levels from the view of attracting suitable talent.

95. The Commission was urged to conclude its task without any delay, and that the recommendations be implemented with effect from the new fiscal year.
96. The retirement benefit which members of the judiciary enjoy is an indispensable part of providing security of tenure of an independent judiciary, comprising judges of integrity, and is a vital component of democracy.

INTERNATIONAL RESEARCH

97. The Commission considered it both appropriate and essential to conduct research in international remuneration principles and practices relating to different categories of public office bearers. In this regard the Commission sought to determine what could be regarded as international best practice, and to copy and apply such principles and practice into the South African scenario, with the necessary changes.
98. Besides desktop research concluded by the Commission and various submissions made to it by stakeholders and consultants, the Commission undertook visits to Australia, Canada and the United Nations Headquarters in the USA to gather relevant first hand information.

99. The Commission conducted a very basic desktop research to establish the remuneration levels of the heads of state and government of countries which could be regarded as having comparable legislative structures and socio-economic backgrounds to South Africa. **Table 12** below compares such remuneration with that of the President of South Africa in order to establish a basic comparison on the President’s remuneration when compared to appropriate international benchmarks.

Table 12: Comparative Heads of State Remuneration

COUNTRY	CURRENCY	BASIC SALARY	EXCHANGE RATE AS ON 04/12/06	BASIC SALARY IN SA RAND	% RELATIVE TO SA	GDP ** (US \$ mil)	Ratio of GDP/ Basic Salary
South Africa	Rand	1 181 438	1 : 1	1 181 438	100.00	234 419	1.42
USA	US Dollar	400 000	1 : 7.17	2 868 000	242.76	12 455 825	31.14
United Kingdom	Pound	183 932	1 : 14.11	2 595 280	219.67	2 229 472	6.16
Australia	Aus Dollar	190 320	1 : 5.66	1 077 211	91.18	708 519	4.71
Finland	Euro	1 458 000	1 : 9.50	13 851 000	1 172.38	196 053	0.10
Canada	Can Dollar	294 000	1 : 6.27	1 843 380	156.03	1 132 436	4.40
Germany	Euro	291 000	1 : 9.50	2 764 500	233.99	2 791 737	7.24
Nigeria	Naira	7 400 000	1 : 0.057	421 800	35.70	99 147	1.69
Botswana *	Pula	332 460	1 : 1.17	388 978	32.92	10 196	0.19
Indonesia *	Rupiah	750 000 000	1 : 0.0007	525 000	44.43	281 264	3.84

* Excludes amount of remunerative benefits and daily allowances, which cannot be calculated accurately.

** International Monetary Fund, World Economic Outlook Database, September 2006

[Desktop research](#)

THE UNITED STATES OF AMERICA

100. The President is simultaneously the Head of State, Head of Government, Commander-in-Chief of the armed forces, and leader of his or her political party. The President receives an annual salary of \$400 000, and \$50 000 for expenses, as well as \$100 000 for travel expenses. In addition, the President receives handsome retirement benefits. Only the salary portion is currently taxable. The Constitution directs that Presidential salaries may only be amended at a change in administration, and may not be amended during a term of office. The process for determining Presidential remuneration rests with Congress, who, after conducting hearings into the matter, considers the need and level for a Presidential remuneration

adjustment, and upon resolution, passes a Bill to determine the relevant remuneration.

101. Former Presidents receive a lifetime pension in terms of the Former Presidents Act, 1958, as well as various office, travel, mailing and security allowances.
102. The salaries of Members of Congress, which is still to the dismay of the judiciary statutorily linked to the salaries paid to Judges in the USA, are determined in one of three ways:
 - Stand alone legislation by Congress, determining its own salaries;
 - Automatic annual adjustments based on the Employment Cost Index, unless disapproved by Congress; or
 - Pursuant to recommendations by the President, which are in turn based on the recommendations by an independent Commission.
103. The Ethics Reform Act, 1989, provides for annual adjustments in the salaries of the Vice President, Members of the Senate and House of Representatives and Judges, based on the percentage change in the Employment Cost Index. The level of remuneration of the Vice President is identical to that of the Chief Justice and the Speaker of the House of Representatives. Benchmarking for the purpose of determining salary levels of legislative, executive and judicial officials are done against the salaries of members of the Senior Executive Services (SES) in the public sector.

THE UNITED KINGDOM

104. Members of Parliament are paid a uniform basic parliamentary salary. Those Members of Parliament who are appointed to specific positions in Parliament are paid amounts in addition to the basic parliamentary salary. Grading and benchmarking are therefore done from the bottom up. These salaries are statutorily promulgated. Annual increases are based on the level of increases paid to members of the Senior Civil Service (SCS).

105. In addition to the above salaries, Members of Parliament (with the exception of the Prime Minister, Lord Chancellor and Speaker, who enjoy preferential pension benefits), are entitled to:

- A resettlement grant (of between 50% and 100% of annual salary in the event of the member losing his or her seat);
- A severance payment (equal to three months salary, subject to certain conditions relating to age and re-employment);
- A tax exemption in respect of resettlement and severance payments (up to a determined amount); and
- Other allowances (including subsistence, constituency, travel, and tools of trade).

BOTSWANA

106. The salaries and allowances of political office bearers in Botswana are statutorily proclaimed. Generally, office bearer remuneration consists of a salary attached to each specific position, and a series of allowances to accommodate practical demands on those positions. These allowances include:

- A responsibility allowance;
- A hospitality allowance;
- A communications allowance;
- A subsistence allowance; and
- Other allowances (including domestic services, water and electricity).

107. This practice does not allow the public to readily establish the total remuneration paid to its public office holders.

108. Tools of trade for public office bearers are similarly prescribed statutorily to the extent that it outlines in detail what the individual resources are that

would be available to different office bearers to perform their respective duties. These tools of trade include traveling, medical, entertainment, housing and household resources.

FINLAND

109. The remuneration of the President is determined and approved prior to and for each term of office by law, and may not be amended during that term of office. In addition, the Presidential residences and other necessary services are also maintained with public funds. The pension benefits of the President are similarly determined prior to taking office, and may not be amended during the President's term of office. The President would be entitled to the full pension benefits after having served one full term of six years, and the benefits are reduced proportionally by the period served less than a full term. A serving President also receives an office suite, secretarial and administrative support, transport and security services after retirement. All of these benefits and the total remuneration are completely exempt from tax.

[Submissions](#)

110. The Commission also received some valuable submissions relating to international remuneration practices and levels from the following institutions listed below.

PARLIAMENT

111. A copy of the entire submission in respect of an international comparative analysis of the remuneration of Members of Parliament is attached to this report, marked **Annexure L**.

NEW YORK STATE SUPREME COURT JUDGES

112. The Commission received a number of articles from the New York Law Journal highlighting the unfortunate consequences of members of the Judiciary having to lobby for salary increases, due to existing undue linkages of the remuneration of judges to that of elected political office bearers. The reports describe the impact of this situation on judicial independence and urge for a clear separation between the processes for determination of judicial and political office bearer remuneration.

[Visits](#)

113. The Commission identified the following countries as being favourable for an in depth comparison with South African public office bearer remuneration practice:

- Australia;
- Canada;
- Brazil;
- The United Kingdom;
- India; and
- Nigeria.

114. These countries were identified on the basis of:

- Sharing a bi-cameral parliamentary system;
- Sharing a three-tier system of government;
- Sharing an elected municipal legislature;
- Sharing regional or provincial legislatures with original legislative responsibilities;
- Comparable constitutional and judicial structures; and
- Relatively comparable GDP's, population sizes and population densities.

115. The Commission was able to visit Australia, Canada and the United Nations Secretariat in its endeavour to determine international best practice, and intends to supplement its information in this regard by continued engagements in the foreseeable future.

116. The sub-paragraphs below briefly set out some of the valuable lessons learnt from the countries already visited.

AUSTRALIA

117. The Commission elected to undertake a study tour to Australia mainly because of the fact that public office bearer remuneration has been determined on the recommendations of similar independent tribunals since 1973, and to learn from the translation of Australian public office bearer remuneration to a total remuneration structure in 2002.

118. The remuneration for the following public office bearer positions in Australia is determined as follows:

- Governor General
 - Remuneration is determined by Parliament, and is linked to the remuneration package of the Chief Justice; and
 - No contributions are made to a pension fund, but defined benefits are received after termination of office.

- Members of Parliament (MP's)
 - The Australian Commonwealth Remuneration Tribunal (ACRT) recommends a base salary for ordinary members of Parliament, which is linked to remuneration bands in the Principal Executive Officer (PEO) structure, and must be accepted by Parliament. The ACRT makes annual determinations of the level of different MP positions

- over and above the stated base pay, which determinations are subject to change by Parliament; and
- The determination of MP remuneration is considered by the public as being self determined to a great extent, despite the role of the ACRT.
- Judicial Officers
 - The ARCT determines the base pay (linked to the PEO structure) and some allowances for judicial officers. Other allowances may be paid from a number of different sources;
 - Remuneration may not be based on performance; and
 - There is a current gradual move towards remuneration of judicial offices on a “total remuneration” basis.
- Principal Executive Officers (PEO’s)
 - The Minister of Employment and Workplace Relations determines, on the advice of the ACRT, what positions are to be included in the PEO structure.
 - The ACRT sets minimum and maximum amounts within which PEO’s may negotiate their “total remuneration” packages with their respective employers on the basis of:
 - The job value, role and responsibilities of the position;
 - A linkage to productivity and performance; and
 - Recruitment and retention considerations.
- Senior public service executives
 - The ACRT advises the Prime Minister on the remuneration of Departmental Secretaries (Directors-General) and Heads of Executive Government Agencies, where after the Prime Minister makes a final determination.

- State public office positions
 - Six of the eight states and territories have enacted legislation linking the remuneration of states' public office bearers to the federal determinations by the ACRT. The remaining two states make independent determinations, which are apparently informally influenced by federal determinations.

119. No formal job profiling exercise has been conducted to date in Australia. Current remuneration practices are based on historical data which is annually adjusted. Although no formal and comprehensive grading exercise of all public office bearer positions has been conducted, public office bearer positions are graded by the ACRT with reference to the PEO structure determined by the Minister of Employment and Workplace Relations, on the advice of the ACRT. The Remuneration and Allowances Act, 1990, links the base pay of Parliamentarian office-bearers to certain positions in the PEO structure (benchmarking). This is, in effect, a government decision, but the Tribunal reviews and adjusts pay in the PEO structure annually by setting parameters within which the actual remuneration is individually negotiable. Base salaries have been linked to remuneration rates in respect of Australian Public Service Senior Executives. The Tribunal determines the additional portion of remuneration above the base pay. In doing so, the Tribunal is obliged, in terms of the Remuneration Tribunal Act, 1973, to consider the "Principles of Wage Determination" established from time to time by the Australian Industrial Relations Commission. The anchor position for public office bearer remuneration in Australia is set at the level of an ordinary Member of Parliament. This is referred to as the base salary. The ACRT determines ratios for each other public office bearer position in relation to the base salary. Anchoring is therefore done from the bottom up, as opposed to the South African methodology of anchoring from the top down. Benchmarking of public office bearer positions in Australia is done exclusively to public sector positions. The ACRT advised that it attempted some time ago to benchmark public office bearer positions against the

private sector, but found it to be both impractical and untenable. Their argument is that the drivers for public sector and private sector remuneration are fundamentally different to such an extent that comparative benchmarking is not sustainable over the long term.

120. A clear distinction is made in Australia between remuneration and entitlements. This is similar to the distinction in the South African Remuneration of Public Office Bearers Act between remuneration (salary, benefits, allowances) and "tools of trade" (resources which are necessary to enable an office-bearer to perform functions). In Australia the concept "total remuneration" is viewed as an exhaustive statement of an office-bearer's remuneration and significantly related non-monetary benefits intended for personal use. It does not include allowances, leave pay-outs, separation benefits or re-imbursment for expenses. The term entitlements is used in Australia as a synonym for "tools of trade". The remuneration tribunals make many different ad hoc determinations relating to entitlements for public office bearers. Most entitlements are administered by relevant institutions on an "actual expense subsistence and travel" basis, which does not allow office-bearers the freedom to administer their own entitlements. A general observation is that remuneration is determined as flexible as possible, while entitlements ("tools of trade") are strictly prescribed and administered.
121. Presiding officers at both federal and state level are not obliged to contribute to a pension fund, but rather receive defined benefits after termination of tenure. All other office-bearers take part in a defined contribution pension scheme in terms of which the employer currently contributes monthly payments equal to 15.4% of the office-bearer's monthly basic salary. Pension contributions are only made during the period of tenure, and are only accessible by office-bearers or former office-bearers when they turn 55 years of age.

CANADA

122. The Commission elected to undertake a study tour to Canada on the basis of its similar constitutional dispensation, similar remuneration commissions and practices, and leading developments in respect of judicial independence. The visit took place between 07 and 13 November 2006.
123. Salaries and allowances of Canadian Members of Parliament, including annual percentage adjustments are proclaimed in terms of specific legislation.¹³ The proclamations are based mainly on recommendations by ad hoc Commissions appointed by the Governor after general elections. Annual salary adjustments are made in relation to the annual inflation rate. Total remuneration packages consist of a salary, an annual allowance, sessional allowances, a motor vehicle allowance, an allowance for incidental expenses, and the payment of actual costs in respect of moving, transportation, travel and telecommunications expenses. The principle is that all Members of Parliament should be remunerated at the same level (currently \$147 700), and that those members with additional duties receive an additional salary to compensate them for those additional duties. The table below indicates the actual pay data for Members of Parliament (House of Commons), with effect from 01 April 2006.
124. Salaries and allowances of Members of Parliament are no longer based on and adjusted in relation to the salary of the Chief Justice, but in accordance with the published average increase in base-rate wages in the Canadian labour market, as published annually.
125. Tools of trade for Members of Parliament are handled as actual expense claims against a pre-determined budget.
126. Pension entitlements are regulated in terms of the Members of Parliament Retiring Allowances Act, in terms of a fixed formula based on one's period

¹³ Parliament of Canada Act, Part IV, Remuneration of Members of Parliament.

of tenure and age. Members of Parliament are only entitled to a pension payout after they reach the age of fifty-five, irrespective of the age at which they ceased to be Members of Parliament.

127. Under section 100 of the Constitution of Canada, it is the duty of Parliament to fix the salaries, allowances and pensions of federal judges. In order for it to do so, a statutory Commission completes the necessary reviews and makes recommendations to the Minister of Justice, who is under a statutory obligation to table the report in Parliament. The Judicial Remuneration and Benefits Commission (whose three members are appointed by the Minister of Justice for terms of four years each), is mandated to review and make recommendations to the Minister with regard to the remuneration and benefits of federal judges. In conducting its review the Commission is obliged to consider:

- Economic and cost-of-living conditions in Canada;
- The financial position of government;
- The role of financial security of judges in relation to judicial independence; and
- Other relevant criteria.

128. Although it may appear that Parliament controls the judiciary by determining its remuneration, there is overwhelming case law in Canada directing that Parliament may only deviate from the recommendations of an independent and effective remuneration commission on compelling grounds.

129. In 1997 the Supreme Court of Canada¹⁴ listed the following core characteristics of judicial independence:

- Security of tenure;
- Financial security;

¹⁴ Reference re Remuneration of Judges [1998] 1 S.C.R. 3

- Administrative independence;
- A depoliticised relationship between judges and the executive and legislative branches of government. This implies that:
 - There should be no changes to judicial remuneration without a prior independent and effective process for determining judicial remuneration;
 - Members of the judiciary should never engage in remuneration negotiations with the executive or legislature. To do so would be fundamentally at odds with the principle of judicial independence; and
 - Judicial salaries may not be reduced below a minimum level.

130. The benchmarks applied for the determination of judicial remuneration are a combination of the following factors, which have proven to be problematic if used in isolation:

- The most senior level of Deputy Ministers (similar to DG's in South Africa) in government (DM3 and DM4);
- The top 33% of salaries of self-employed legal practitioners in private practice; and
- Salaries of judges in other jurisdictions (including England, Australia and New Zealand).

131. The reason for benchmarking judges' salaries to those in private legal practice is to attract suitable talent to the bench from what is perceived to be the greatest pool of such talent. There is an established practice that there should be a 10% gap between the remuneration paid to different levels of judicial posts in a hierarchical structure.

132. The total compensation of judges includes a significant pension annuity benefit that has substantial value when comparing judicial remuneration with that of private practitioners. Judges are the only office-bearers who are entitled to a "pay-for-life" type annuity, in terms of which they continue to receive two thirds of their final salaries after retirement (under similar conditions as in South Africa).

133. One of the key principles followed with regard to compensation in Canada, is that there should be parity between salaries of senior government executives and CEO's of Crown corporations. It acknowledges that while CEO's operate in a more commercial environment, they are nevertheless performing a public service and have responsibilities that are no more onerous than those of executives in public service. It was suggested that it was important to cultivate amongst the youth in a country, a spirit of willingness to do public service, in order to increase the public service recruitment pool.

UNITED NATIONS

134. The representatives of the Commission made use of the opportunity of having to travel through New York to meet with officials from the United Nations Secretariat dealing with the remuneration of elected and other officials.

135. United Nations remuneration practice is based on the following two principles:

- Locally recruited staff: In accordance with the Fleming principle, which considers only local salary levels in the public service; and
- International staff: In accordance with the Nobleman principle, this benchmarks against the best paid civil service in the world.

136. The stated benchmarking practice exercised by the United Nations for the remuneration of elected office bearers is to benchmark their remuneration packages against that of the best paid public service levels in the world, which has been that of the USA. The respective jobs, and not the characteristics of the incumbents, are taken into consideration in the benchmarking process. Benchmarking is not done in comparison to remuneration levels paid in the private sector. There is also no formal link

between the salaries paid to elected officials and judges serving under the banner of the United Nations, to avoid any possibility of impacting negatively on judicial independence.

COMMISSION'S STATEMENT OF UNDERLYING PRINCIPLES, AND OBJECTIVES IN DETERMINING PUBLIC OFFICE BEARER REMUNERATION

137. Ahead of review results and recommendations, the Commission has formulated a set of underlying principles it has utilised in exercising the discretion and responsibility conferred on it by the Constitution and legislation to make recommendations on the salaries, allowances and benefits of defined public office bearers. They are not a substitute for, but are rather drawn from requirements set by the Constitution and applicable legislation. They reflect the effort of the Commission to arrive at principled but practical bases for determining equitable remuneration. For some of the underlying considerations, the Commission is indebted to submissions proffered by stakeholders such as the executive, legislature, judiciary and traditional leaders. Other principles have emerged from the research and deliberations of the Commission.
138. The principles fall into two interrelated classes. The first set of principles is overarching and is drawn from the objectives and values of our constitutional democracy. The second category of principles are meant to be practical guides in formulating a just remuneration dispensation. None of these principles are intended to be exhaustive or an exact science. The Commission, like the remuneration committee of any enterprise, has to evaluate all relevant considerations and in the end bring sound judgement to bear on what is a fair and justifiable remuneration dispensation

FIRST PRINCIPLES

139. The primary object of the remuneration scheme envisaged by the Constitution and operative law is to entrench good governance in order to

protect and advance democracy, fundamental rights and freedoms and social justice.

140. Public office bearers are there to serve the people. They assume and hold power in the name of the people. Those who assume office through the ballot may continue to hold it only on sufferance and for so long as the electorate allows them to. As such, the manner in which public office bearers are remunerated must not only be in accordance with the law but must also be open and justifiable in the context of our history, constitutional and legislative scheme and the political and social context.
141. Remuneration of people who hold public office is a matter of constitutional importance and of legitimate public interest. Public office bearers are amongst the most prominent and indispensable agents of the new democratic order. They are entrusted with the duty to achieve important constitutional and social goals. Equally, if not more importantly, public office bearers, in their diverse roles and obligations must serve to improve the quality of life of all citizens and free the potential of each person.¹⁵ The implication of the authority they wield is that the remuneration policy we adopt should support the substantive and strategic thrust of our constitutional scheme at every appropriate level of state function or administration.
142. One of the organising principles of our Constitution is the separation of powers amongst the three principal arms of government. The legislative authority of the national sphere of government is vested in Parliament; provinces are vested in the provincial legislature and the local authority is vested in the municipal councils.¹⁶ On the other hand, the executive authority of the Republic is vested in the President together with the other members of Cabinet.¹⁷ Similarly, judicial authority of the Republic is vested

¹⁵ Preamble to the Constitution.

¹⁶ Section 43 of the Constitution.

¹⁷ Section 85 of the Constitution.

in the courts.¹⁸ Although our notion of separation of powers may not be absolute,¹⁹ the Constitution allocates to each arm of the State specified powers. The architecture of our remuneration scheme must enhance rather than impede separation of powers and, when appropriate, the proper and independent functioning of each arm of government.

143. Therefore positions in each arm of the State must be evaluated and graded and benchmarked vertically and internally. Each arm of government (or if you will, each institutional silo) must display a rational ranking, internal cohesion and equity. Horizontal comparisons of roles in different silos present enormous challenges. Whilst the comparison may be done in a few instances, generally legislative, judicial and executive roles cannot be helpfully compared, graded and benchmarked.
144. Whether the remuneration of public office bearers is appropriate hinges on several important factors. One that stands out is whether the different levels of remuneration are affordable in relation to available State resources and the public purse. One such claim which is deeply embedded in our uneven past relates to reconstruction and development; to equalising opportunity; to creating sustainable jobs, to the systematic destruction of poverty, and endemic ill-health. What is clear is that the remuneration scheme for public office bearers must be affordable and within the means of the national treasury.
145. Transparency in the conduct of public affairs is one of the central values of our constitutional democracy. It is closely allied to another pivotal constitutional principle of accountability. Public office bearers must be held to account for their conduct including whether their remuneration is justified. That can happen only if there is openness. These values taken together are a crucial antidote against abuse of public power and public funds. It is therefore legitimate to ask whether public office bearers ensure and deliver to the people of this country proper governance; whether the

¹⁸ Section 166 of the Constitution.

¹⁹ See for instance chapter 2 of the Constitution on co-operative Government.

citizenry gets, so to speak, a bang for its money, or an adequate return of clean, effective and good government.

146. The very creation and role of an independent commission on remuneration originates from the Constitution and other law. Therefore, the process by which remuneration is set must be lawful, open and fair and the substance of the recommendations on remuneration must be justifiable and equitable in relation to all relevant factors.
147. The purpose of the constitutional and legislative provisions establishing a remuneration commission is to arrive at a fair remuneration dispensation for public office bearers. The Commission is duty bound to furnish the decision makers with independent and unbiased suggestions on pay dispensation, and in so doing to eliminate self-serving decisions by beneficiaries of the remuneration framework. It may also be said that the additional object of the provision is to avoid a conflict of interests concerning the fixing of the remuneration of public office bearers by entrusting the recommendations on remuneration to an independent constitutional body.
148. Implicit in all these principles is the requirement that public office bearers must have the competences and abilities demanded by the offices they hold. Therefore in theory, and hopefully in practice, there must be an appropriate relationship between the job content, complexity and competence, on the one hand, and the size of the remuneration, on the other.
149. Without failing, every public office bearer must obey uphold and protect the Constitution and all other law and must perform her or his functions diligently and to the best of her or his ability.²⁰ In order to ascertain the powers functions and duties of a public office bearer and the complexity of the decisions he or she has to make, one must look at the Constitution and

²⁰ Oaths and Solemn Affirmations in Schedule 2 of the Constitution.

the operative legislation. Again, public office bearer jobs are graded or ranked relative to other positions in the relevant State institution on the basis of the complexity and impact of their constitutional and legislative responsibilities. Therefore, the subjective opinions of incumbents on the job content and grading may be helpful but certainly not decisive.

150. The operative legislation commands us to consider current principles and levels of remuneration in society in general before making recommendations. A typical remuneration philosophy suited to a corporate or business environment would ordinarily require that the remuneration should be: (a) transparent; (b) justifiable; (c) market related; (d) performance driven; and (e) able to attract and retain skilled and competent staff.
151. We have already emphasised that remuneration arrangements for public office bearers must be **accessible** to the public and must be decided openly.
152. The remuneration of a public office bearer, in the private and other sectors, must be **justifiable**. The remuneration package must be properly connected or related to the office bearer post. It must fit the purpose, duties, responsibilities, powers and activities attached to the position in the relevant institutions. The remuneration must be properly aligned to the relative rank or grading and status of the job in the state institution and must be assessed keeping in mind appropriate external comparators such as pay levels of comparable positions in public administration, organs of state, state-owned enterprises, non-governmental organisations, the private sector, foreign governments and public international institutions.
153. The Commission is obliged to take notice of market trends but this does not mean that public office bearer remuneration must be **market related**, in the sense that pay levels should be at the same level the private sector would pay. The subtext of this requirement is that market trends are

beyond reproach. The Commission takes the view that whilst market trends are useful as part of a collection of comparators, it would be inappropriate to require public remuneration to be market driven. In fact, it may constitute a breach of a vital principle of public service to equate what the market can bear on remuneration to what may be appropriate pay levels in the public sector. It must be emphasised that public office should not be a place for material largesse or profit.

154. Ordinarily in the private sector remuneration is required to be ***performance driven***. However, matters are different in the domain of public office bearer remuneration. Historically, in this country, office bearers in the same grade (or notch) are deemed to be equal and are normally entitled to the same pay level despite their manifest unequal performance. This entrenched notion of entitlement to equal remuneration seems to be intolerant to performance based remuneration. The constraint is embedded in the so-called principle of parity of precedence.
155. The Commission has sought to observe and advance equal treatment and uniformity of salaries, allowances and benefits for positions adjudged to entail equal work and responsibility. Also the Commission must observe uniform norms and standards nationally. This principle is not beyond criticism. In fact, it is often at odds with recognising and rewarding good performance and experience. The Commission has been confronted with submissions that suggest that Cabinet portfolios should be remunerated differently and relative to the complexity of their tasks. Judges were unanimous in their submissions that performance related financial incentives and differentiation on grounds of judicial experience would be inconsistent with judicial independence. Submissions by Parliament and provincial legislatures and by traditional leaders did not press for performance related remuneration.
156. The role of public office bearers present a special challenge in setting appropriate performance outputs or targets, because the roles require the

exercise of a discretion or judgement in the public interest. Sometimes the decisions are driven by policy or political choices that are hard to measure as performance. For instances one cannot reward or refuse to reward legislators for the way they craft or vote on legislation or the manner in which they oversee executive function. Equally, it would be unacceptable to so structure remuneration as to impact the independence of the judiciary.

157. The Commission recognises the salutary role of performance as a determinant of fair remuneration. Public office bearers too must perform their tasks dutifully and to the best of their skills and ability. However, the Commission accepts that the public power wielded by office bearers must be exercised as required by the Constitution and other law. Therefore no remuneration system, laudable as its objects may be, should bear the potential to undermine the proper or lawful exercise of power which often requires sound judgement and discretion untainted by financial incentive. As a possible midway, the Commission considered recommending a performance incentive scheme within a fixed financial range at the behest of an executive head such as the President, Premier or Mayor. They would have the discretion whether to use the incentive scheme. The scheme is a derogation from the notion of parity and would require detailed workings before implementation.
158. It seems that at this stage the Commission has no option but to observe parity of precedence by not seeking to differentiate the remuneration levels of posts in the same category through performance criteria. For the Commission's part this is not the last word on this matter. It remains important to explore appropriate means of enhancing the performance of public office bearers without limiting the proper fulfilment of duties imposed by law. It must be added that not all measured performance need be linked to financial reward. Quite often internal and external rating of performance and public disclosure of poor performance has a salutary effect.
159. Like any good employer, the State should have a remuneration system that is able to **attract and retain skilled and competent staff**. The

immediate difficulty is that public office bearers are appointed in different ways and their tenures of office differ remarkably. Legislators at all spheres of government are appointed from election lists of political parties and serve at best from election to election. Ordinarily, executives emerge from the ranks of politically elected lawmakers and remain so but serve at the pleasure of the President or of the Premier or of the Mayor, as the case may be. Judges and magistrates may be appointed only if they have suitable academic qualifications and appropriate practical experience. They enjoy security of tenure as they are appointed until retirement and may be removed only through parliamentary impeachment or other prescribed procedure, in the case of magistrates. However, beyond family lineage traditional leaders do not seem to require set qualifications for appointment and the term of office appears to be limitless.

160. Despite vast differences in each arm of government, it is appropriate and necessary that the remuneration regime strive, within reasonable limits, to attract and retain skilled and competent people who would want to pursue public life for the greater good. For the legislative and executive posts much depends on the competence and skill of candidates on party election lists. On the other hand, judicial officers are appointed mainly from the ranks of the practising legal profession and law academics. Be that as it may, should the remuneration scheme in each arm of government fail to attract and retain good office bearers in the public space, our democracy, in time, will falter.

SECOND PRINCIPLES

161. All public office bearers should receive justifiable and equitable remuneration in accordance with their respective responsibilities.
162. The primal source of the respective responsibilities of public office bearers is the Constitution and other law. Therefore their provisions override the

subjective views of incumbents over their role, status duties and responsibilities. The Commission, however, acknowledges that roles may become customised by incumbents. That explains why at the beginning of this process we compiled job profiles on an interactive basis. We took into consideration the job descriptions of incumbents. However, for purposes of grading we relied on the Constitution and the law where the job profiles provided by the incumbents were different.

163. The Commission examined the most used grading tools in the private sector. It also examined the grading system utilised by the Senior Management Service. In our view, none was appropriate for the task at hand. Market grading systems are clearly useful and the Commission has in fact used Peromnes grading for the purpose of comparing pay levels. However, market grading systems fail to capture the complexity and nuances of public roles. On the other hand, senior members of the public service do not carry the stewardship responsibility and accountability toward the electorate. Simply put, senior public servants do not bear the burden of political accountability to the electorate and of broad policy formulation and directional leadership.
164. The Commission has developed a customised and eclectic grading system. It has adopted appropriate job attributes measured in widely used job grading systems in the private sector. In addition, when appropriate, it has relied on existing objective criteria used to distinguish job sizes, for example, the hierarchy within judicial institutions; the hierarchy between the president and deputy ministers or the authority, impact and influence of a position within legislatures. Another objective criteria derives from institutional relativity. The position of an institution relative to others in our constitutional scheme tells much about the size of the job, and the status and protocol it should enjoy.
165. The job attributes the Commission relied upon are:
 - The role, status, duties and responsibilities of the office bearer concerned;

- Problem solving and decision making;
- Job impact and consequences of decision making;
- Leadership planning and management;
- Accountability;
- Policy making decisions;
- Pressure of work; and
- Knowledge, its acquisition and application.

166. The Commission has not quantified any of these job factors nor do we consider it appropriate to do so. However, it goes without saying that ordinarily an office bearer position which engages most or all of these evaluative factors will enjoy a grading higher than a post which does not. In the end the grading the Commission opted for is an outcome of careful evaluation of all these factors in relation to each post. Happily so, the grading was put to stakeholders who expressed their support.

167. We now turn to benchmarking, which has several options, and engaged the Commission most. The Commission declined to follow the proposals of our independent consultants, that we benchmark the positions of public office bearer's against the national market trends. As a matter of principle, public office differs from private office. It bears repetition that business thrives on profit and material acquisition. The public office should be animated by public spiritedness, stewardship and accountability. The data we have explored earlier in graphs and figures sought to demonstrate that even if public sector jobs are graded in the same manner as the private sector, the pay in business amounts to many multiples of public sector remuneration. The data reveals the same trend in state-owned enterprises. Their chief executives earn, on average, four to five times what the President earns. In conclusion the Commission will have regard to private sector trends but refuses to use this as a benchmark for the determination of remuneration of public office bearers. We have scanned the international landscape. The comparisons of salaries of heads of state and of legislators elsewhere are informative but are not alone helpful in our cause

168. Having evaluated all benchmarking options, the Commission has decided to link remuneration of public office bearers to anchor positions internal to the ranks of public office bearers.
169. Choosing an anchor position involves the following mechanical steps:
- Defining the role;
 - Getting appropriate benchmarks;
 - Determining the anchor salary;
 - Reviewing the percentage gaps; and
 - Applying the percentage gaps through the grading scale.
170. The identification of public office bearers as anchor positions is premised on the internal hierarchy, the separation of powers and shared powers across the three arms of government. Our Constitution places a premium on three separate but equal arms of state with exclusive as well as shared roles and functions. It follows that each arm of the state should have an anchor position reflective of internal hierarchy. It is just as clear that the remuneration of anchor positions in each arm should be equal. That parity of remuneration would be one of the important considerations in maintaining the balance of power necessary for our constitutional democracy to function effectively. The graded positions within each arm of state should in turn form the basis for the determination of remuneration relative to the specific anchor position.
171. The Commission has determined the appropriate grade and remuneration of the anchor positions by the job attributes and other grading factors discussed above. The fixing of remuneration levels for the anchor positions was done by considering the pay levels of a cross section of positions of comparable seniority in the public and private sectors as well as international practice.

172. The Commission turns to identifying the anchor position in each arm of state. The President is not an appropriate position to be used as anchor. He or she occupies a unique position. Although he or she is elected by parliament he or she ceases to be a member of parliament on election and assumes the role of Head of State and Head of the National Executive. The president carries unmatched influence and power of appointment across all arms of the state. The role of an anchor should not be so specialised and unique that it does not easily enable comparison to any other job. Moreover, if there is only one incumbent in the anchor position, the set of skills, requirements and capacities are so rare that they do not lend themselves to easy comparison with any other comparable private or public sector role. This adds unnecessary instability and subjectivity to the remuneration determination process from all other state structures.
173. Moreover, it is clear that best practice internationally is not to use the position of the President as the anchor. This is because of the political issues and sensitivities attached to this position.
174. The Commission takes the view that each arm of state should have an anchor position for the benchmarking of remuneration of public office bearer positions in accordance with the internal hierarchy of the arm. The following anchor positions have been selected:
- Executive : The Deputy President;
 - Parliament : Speaker of the NA and Chairperson of the NCOP; and
 - Judiciary : Chief Justice.
175. In keeping with the equal status of the three arms of state the grading and remuneration of the anchor positions should be equal across the three arms of government.

176. In determining the appropriate ratio between the remuneration of the anchor position and the lowest position in the grading of an arm of the state and between the consecutive positions in the hierarchy:
- The ratio should reflect the smallest acceptable difference between the anchor position and the lowest position within the arm of state. This consideration accords with the progressive view of flat organizational structures, particularly within bureaucracies; and
 - There should be an acceptable degree of consistency between the ratios of consecutive positions in the grading structure of an arm of government except where the jobs carry substantially different responsibilities.

REVIEW RESULTS

177. The Commission is acutely aware of the possibility of some negative public sentiment which may result from the extent of its remuneration recommendations contained in this report. The Commission however strongly believes that it has a constitutional duty to make remuneration recommendations which are fair and justifiable, and which are made without fear, favour or prejudice.
178. The Commission has formed a strong view that public office bearer remuneration has not kept pace with economic and other developments in the past. In addition, remuneration levels have not to date been determined in accordance with scientific methodologies. The Commission therefore set out to make recommendations which would, for the first time, settle public office bearer remuneration at levels that would be fair, just and equitable, and at the same time reflect the value of public office and service to the country.
179. The review results are presented for each Public Office Bearer institutional group, namely National Executive and Deputy Ministers, Parliament (National Assembly and National Council Of Provinces), Provincial Legislatures, Local Government, Traditional Leaders, and the Judiciary (Judges and Magistrates). The results in respect of each institution are presented in respect of the following review phases:
- Job profiling;
 - Job grading;
 - Benchmarking; and
 - Appropriate pay levels/ remuneration packages.

JOB PROFILING

180. Job profiles were drafted for the positions of President, Deputy President, Minister, and Deputy Minister, in consultation with a Ministerial Committee assigned by Cabinet for this purpose. These job profiles are attached hereto as **Annexure D**.
181. The aim of drafting these job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and with improvements in performance of responsibilities intrinsic to each public office bearer position.

JOB GRADING

182. A vertically and horizontally integrated grading structure has been developed for all elected political office bearers, which reflects the intra- and inter-institutional relatedness amongst different positions. The methodology applied in this regard has already been explained in chapter 7 above.
183. The proposed grading table in respect of all political office bearer positions is attached as **Annexure I**. The grading structure is characterised by both grades and pay levels to distinguish between positions on the basis of its relative worth.
184. The grading results for public office bearer positions in the National Executive and Deputy Ministers are as depicted in **Table 13** below.

Table 13: Grading table for National Executive and Deputy Ministers

Grade	Pay level	Position
EA	1	President
EB	1	Deputy President
EC	1	Minister
ED	1	Deputy Minister

185. The grading results formed the basis of determining the market comparison and internal relativity of salaries for these positions.

BENCHMARKING

186. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both a Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and a Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission's hybrid model involved, for the time being, benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international sectors. In addition, the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.

187. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in private sector, senior public service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.

188. The Commission considers the position of the Deputy President to be the most appropriate remuneration anchor position for public office bearer positions in the National Executive and Deputy Ministers. In order to find an optimal benchmark for the position of the Deputy President, the Commission considered the following:

- Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by that remuneration levels for a Size E private sector company would be most appropriate.
- Benchmarking practices in countries with similar constitutional and governmental systems as South Africa show that the remuneration of the head of state or head of government is at a similar or lower level to that of its Chief Justice.
- For reasons advanced earlier, it is inappropriate to use the President, as an anchor. For many good reasons implied by our constitutional configuration, the President should be located above the heads of the other arms of government. It is the view of the Commission that the Deputy President, Speaker of the National Assembly jointly with Chairperson of the National Council of provinces and the Chief Justice should serve as anchors of their respective institutions.

189. The Commission had the benefit of comparative data to be found in **Table 12**, which is duplicated below for ease of convenience. It relates to known salaries of other heads of states or of government. It may be added that only a few countries disclose remuneration arrangements of heads of government to the public or to officials of other governments. The data does not in itself constitute dependable comparators. Firstly, often the salaries disclosed are a poor catalogue of the entire remuneration package. Secondly, the different social, economic and political contexts in these countries make direct remuneration level comparison less than optimal. One of the ways, however, to compare remuneration paid to Heads of State is to compare their relative salaries to the respective countries' Gross Domestic Product (GDP), the latter which is a measure of the size of the

economy of a country and an indicator of the standard of living in the country. The ratio *GDP / US \$ value basic salary* expresses the number of times GDP is higher than the basic salary of the Head of State, and is used as a basis for comparing like with like.

Table 12: Comparative Heads of State Remuneration

COUNTRY	CURRENCY	BASIC SALARY	EXCHANGE RATE AS ON 04/12/06	BASIC SALARY IN SA RAND	% RELATIVE TO SA	GDP ** (US \$ mil)	Ratio of GDP/ Basic Salary
South Africa	Rand	1 181 438	1 : 1	1 181 438	100.00	234 419	1.42
USA	US Dollar	400 000	1 : 7.17	2 868 000	242.76	12 455 825	31.14
United Kingdom	Pound	183 932	1 : 14.11	2 595 280	219.67	2 229 472	6.16
Australia	Aus Dollar	190 320	1 : 5.66	1 077 211	91.18	708 519	4.71
Finland	Euro	1 458 000	1 : 9.50	13 851 000	1 172.38	196 053	0.10
Canada	Can Dollar	294 000	1 : 6.27	1 843 380	156.03	1 132 436	4.40
Germany	Euro	291 000	1 : 9.50	2 764 500	233.99	2 791 737	7.24
Nigeria	Naira	7 400 000	1 : 0.057	421 800	35.70	99 147	1.69
Botswana *	Pula	332 460	1 : 1.17	388 978	32.92	10 196	0.19
Indonesia *	Rupiah	750 000 000	1 : 0.0007	525 000	44.43	281 264	3.84

* Excludes amount of remunerative benefits and daily allowances, which cannot be calculated accurately.

** International Monetary Fund, World Economic Outlook Database, September 2006

190. Having thus established appropriate benchmarks for the anchor positions of the Deputy President, ratios to the anchor position were determined for the positions of President, Minister and Deputy Minister, after taking into consideration:

- The extent of job evaluation and grading differences;
- Location on or close to the public office bearer pay line developed by the Commission's consultants;
- Consistency in the rates of spread between top and bottom remuneration levels in institutions; and
- Creating room for aspiration and career progression within an institution.

191. **Table 14** below reflects the ratios at which the Commission proposes the location of public office bearer positions in National Executive and Deputy Ministers.

Table 14: Remuneration ratios in relation to institutional anchor

Grade	Pay level	Position	Ratio to anchor
EA	1	President	EB1 + 10%
EB	1	Deputy President	Anchor
EC	1	Minister	EB1 - 15%
ED	1	Deputy Minister	EB1 - 30%

PAY LEVELS

192. Having completed the required job evaluations, established horizontally and vertically integrated grading structures, and having determined optimal benchmarks for public office bearer remuneration, the next step in the Commission's review process is to recommend actual pay levels for each public office bearer position.

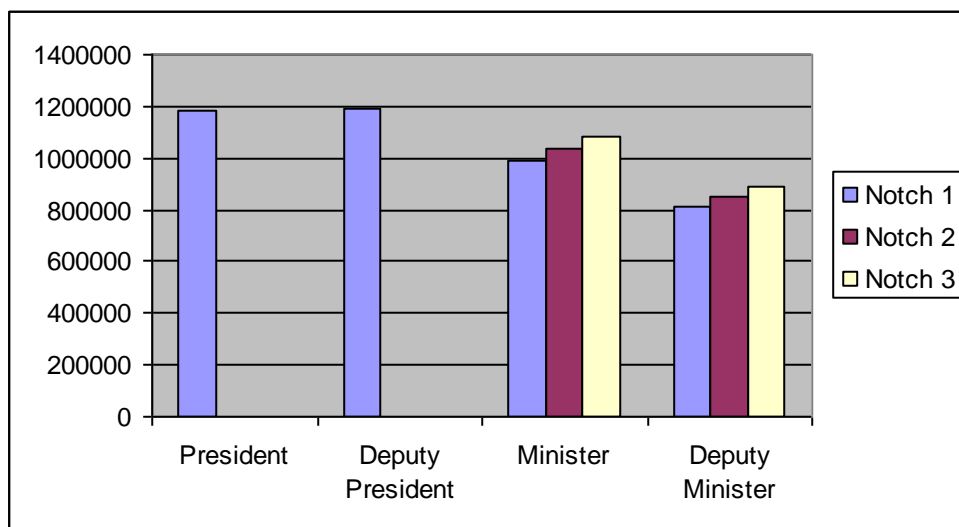
193. The current total remuneration of the President, Deputy President, Ministers and Deputy Ministers is as set out in **Table 15** and **Figure 7** below.

Table 15: Current total remuneration packages: National Executive

Office	Notch 1	Notch 2	Notch 3
President	1 181 438 *	/	/
Deputy President	1 188 940	/	/
Minister	989 572	1 037 055	1 084 512
Deputy Minister	811 856	850 441	889 007

- * This amount does not reflect the pension and medical aid benefits a former President is entitled to. The pension and medical aid benefits of the President are regulated by section 2 (5) and (6) of the Remuneration of Public Office Bearers Act, 1998, which provides that these benefits shall be determined by resolution of the National Assembly, after taking into consideration the recommendations of the Commission.
- The value of the current total remuneration packages have been calculated as set out in Annexure H, and includes basic salary, motor vehicle allowance, medical aid and pension fund benefits.

Figure 7: Current total remuneration packages: National Executive



194. The Commission developed recommended remuneration levels, ratios, and a pay curve for public office bearer positions in the National Executive and Deputy Ministers, as depicted in **Table 16** and **Figure 8** below.

Table 16: Recommended remuneration Table for National Executive and Deputy Ministers

GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	SEC 8(1)(d) ALLOWANCE	INCREASE IN REMUNERATION	PROPOSED TOTAL REMUNERATION	DIFFERENCE	PERCENTAGE CHANGE		NO OF POSTS	TOTAL COST	EXPLANATION
								Sec 8(1)(d) Allowance	Remuneration			
EA	1	President ***	1 181 438	80 000	676 962	1 898 400	716 962	100	57.30	1	716 962	A + 10%
EB	1	Deputy President	1 188 940	80 000	479 660	1 708 600	519 660	100	40.34	1	519 660	Anchor (A)
EC	1	Minister	1 084 512	80 000	327 788	1 452 300	367 788	100	30.22	26	9 562 488	A - 15%
ED	1	Deputy Minister	889 007	80 000	266 993	1 196 000	306 993	100	30.03	21	6 446 853	A - 30%
TOTAL COST IMPLICATION											17 245 963	

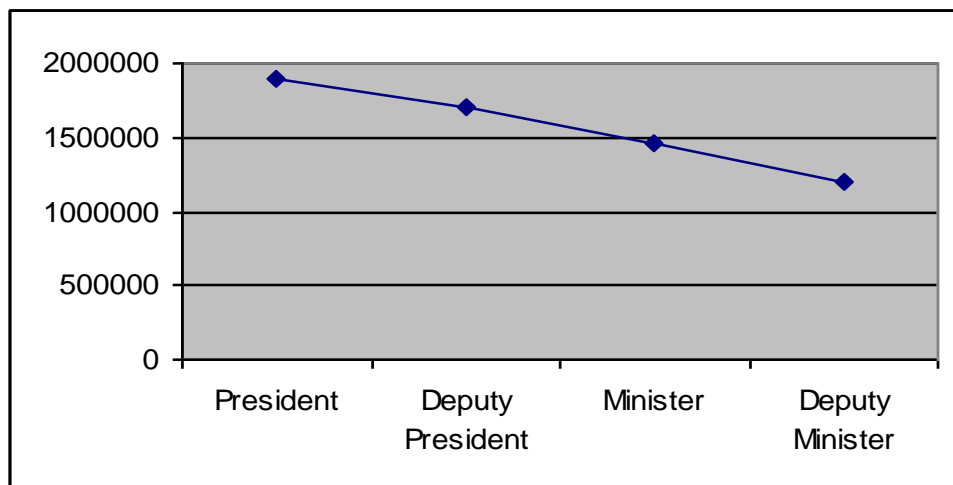
* The value of current total remuneration packages have been calculated as set out in Annexure H, and include basic salary, motor vehicle allowance, pension and medical aid benefits.

* The basis for current package values is the total remuneration in the third notch. The % change stated above will therefore be understated in respect of those incumbents who are not currently remunerated in terms of the third notch.

** This allowance represents an increase from the current level of R40 000 per annum, which amount is included in the calculation of the current package in the previous column.

*** The current package of the President appears less than that of the Deputy President because the remuneration of the Deputy President includes a medical and pension benefit, whereas the President's medical and pension benefits are regulated by a separate legislative provision, and are not included in his package reflected in the table.

Figure 8: Recommended remuneration Curve for National Executive and Deputy Ministers



195. It is critical to note that the amounts reflected above represent the total remuneration which is recommended for payment to public office bearers, which includes salaries, all allowances and all benefits, but excluding any tools of trade allowances, which element will be considered by the Commission as part of its future work.

POSITIONS IN THE LEGISLATIVE AUTHORITIES

PARLIAMENT

JOB PROFILING

196. After a process of initial consultations, and considering all submissions and correspondence received from representatives of Parliament, as well as subsequent in depth role profiling consultations, job profiles were drafted for the following public office bearer positions in Parliament (National Assembly and National Council of Provinces):

- Speaker;

- Chairperson;
- Deputy Speaker;
- Deputy Chairperson;
- House Chairperson;
- Chief Whip: Majority Party;
- Chief Whip: NCOP;
- Leader of Opposition;
- PC: President;
- PC: Deputy President;
- Chairperson of a Committee;
- Chief Whip: Largest Minority Party;
- Deputy Chief Whip: Majority Party;
- Leader of a Minority Party;
- Whip;
- Member of the NA; and
- Permanent delegate to the NCOP.

197. These job profiles are attached hereto as **Annexure D**.

198. The purpose of drafting the job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and with improvements in performance of responsibilities intrinsic to each public office bearer position.

[JOB GRADING](#)

199. A vertically and horizontally integrated grading structure has been developed for all elected political office bearers, which reflects the intra- and inter-institutional relatedness amongst different positions. The methodology applied in this regard has already been explained above.

200. The proposed grading table in respect of all political office bearer positions is attached as **Annexure I**. The grading structure is characterized by both grades and pay levels to distinguish between positions on the basis of their relative worth.

201. The grading results for public office bearer positions in both houses of the National Parliament are as depicted in **Table 17** below.

Table 17: Grading Results for National Parliament

Grade	Pay level	Position
PA	1	Speaker of the National Assembly Chairperson of the NCOP
PB	1	Deputy Speaker of the National Assembly Deputy Chairperson of the NCOP
	2	House Chairperson
PC	1	Chief Whip: Majority Party Chief Whip: NCOP Leader of the Opposition Parliamentary Counsel: President Parliamentary Counsel: Deputy President
	2	Chairperson of a Committee
PD	1	Chief Whip: Largest Minority Party Deputy Chief Whip: Majority Party Leader of a Minority Party
	2	Whip
PE	1	Member of the National Assembly Permanent Delegate to the NCOP

202. The grading results formed the basis of determining the market comparison and internal relativity of salaries for these positions.

BENCHMARKING

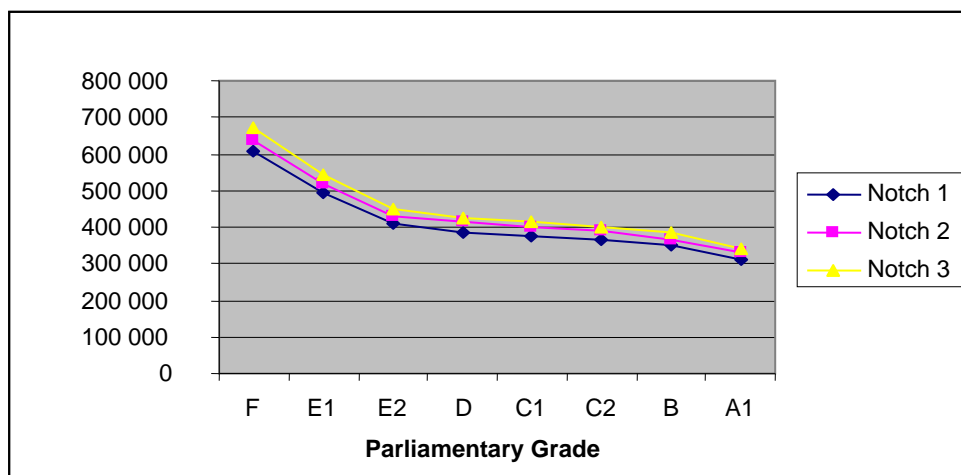
203. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both a Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and a Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission's hybrid model entails benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international

sectors. In addition, the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.

204. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in private sector, senior public service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.
205. The Commission considers the positions of Speaker of the National Assembly and Chairperson of the National Council of Provinces to be the most logical and appropriate top level anchor positions in Parliament. In order to find an optimal benchmark for the anchor positions, the Commission considered the following:
- It is of cardinal importance for our constitutional democracy to benchmark the leadership of parliament on par with that of the executive and the judiciary. This parity of ranking pays homage to the central role parliament plays and the constitutional requirement of separation of powers.
 - Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by its expert consultants that remuneration levels for a Size E private sector company would be most appropriate.
 - Benchmarking practices in countries with similar constitutional and governmental systems as South Africa show that the remuneration of the head of the legislature does not lag behind that of the executive and the judiciary.
 - The hierarchical relation between national, provincial and local spheres of government.

206. The Commission had the benefit of considering a submission on behalf of both Houses of Parliament, which addresses the issues of local and international benchmarking for different parliamentary positions comprehensively. In addition thereto the Commission considers it essential to establish a vertically and horizontally integrated structure for elected political office bearers in national, provincial and local spheres, and across executive and legislative arms of government. In following this principle it is therefore important to consider the benchmarks established in respect of public office bearer positions in the national executive and the judiciary. Parliament must enjoy the parity of precedence which will reinforce its legislative role and oversight obligations over the executive and other organs of state.
207. One of the contentious aspects of the current remuneration structure for political office bearers is the notch progression system. It applies only to the executive and legislatures at national and provincial spheres. The system entitles an incumbent to progress to a higher salary notch only for the reason of the length of tenure in the position. Usually the progression to higher notches occurs as follows:
- Notch One - applies to all members of the national executive who are not re-elected members.
 - Notch Two - applies to all re-elected members (except Notch Three members).
 - Notch Three - applies to re-elected members who have occupied their current office or an office in the same or a higher grade for a period of at least twenty four months in total.
208. **Figure 9** below indicates the difference in basic salaries between the three notches. The difference varies between five to seven percent between notch one and two and between three and five percent between notch two and three. These ranges may inform the spread for a proposed performance-based salary progression system.

Figure 9: Comparison between Basic Salaries within Notches



209. The Commission found that the practice of basing remuneration progression on a notch system is both archaic and counterproductive and at odds with modern trends towards performance-based remuneration. The Commission is therefore of the view that the current notch system of remuneration should be abolished in favour of a remuneration system, within which incumbents could progress on the basis of performance and achievement of institutional goals.

210. Having thus established appropriate benchmarks for the anchor positions, ratios were determined for the remaining institutional positions, after taking into consideration:

- The extent of job evaluation and grading differences;
- Location on or close to the public office bearer pay line developed by the Commission's consultants;
- Consistency in the rates of spread between top and bottom remuneration levels in institutions; and
- Creating room for aspiration and career progression within an institution.

211. **Table 18** below reflects the ratios at which the Commission proposes the location of public office bearer positions in National Parliament.

Table 18: Remuneration ratios in relation to institutional anchor

Grade	Pay level	Position	Ratio to anchor
PA	1	Speaker of the National Assembly Chairperson of the NCOP	Anchor
PB	1	Deputy Speaker of the National Assembly Deputy Chairperson of the NCOP	PA1 – 30%
	2	House Chairperson	PA1 – 35%
PC	1	Chief Whip: Majority Party Chief Whip: NCOP Leader of the Opposition Parliamentary Counsel: President Parliamentary Counsel: Deputy President	PA1 – 45%
	2	Chairperson of a Committee	PA1 – 50%
PD	1	Chief Whip: Largest Minority Party Deputy Chief Whip: Majority Party Leader of a Minority Party	PA1 – 55%
	2	Whip	PA1 – 62%
PE	1	Member of the National Assembly Permanent Delegate to the NCOP	PA1 – 66%

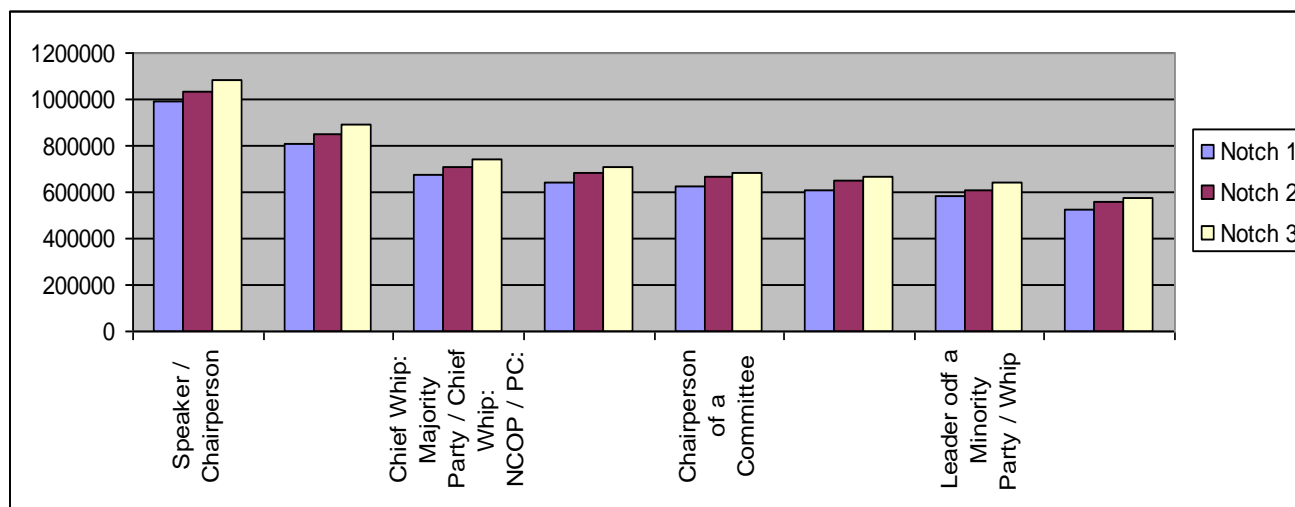
PAY LEVELS

212. Having completed the required job evaluations, established horizontally and vertically integrated grading structures, and having determined optimal benchmarks for public office bearer remuneration, the next step in the Commission’s review process is to recommend actual pay levels for each public office bearer position.
213. The current total remuneration of Members of Parliament is set out in **Table 19** and **Figure 10** below. Based on the grading and market data per grade, it appears that the majority of ordinary members of the National Assembly and the NCOP are being paid at a level which does not merit increase. The pension fund benefit is regarded as being favourable when compared with the general market. The facilities of Members are fair and can be compared favourably to facilities for similar positions in the private sector.

Table 19: Current total remuneration of members of National Parliament

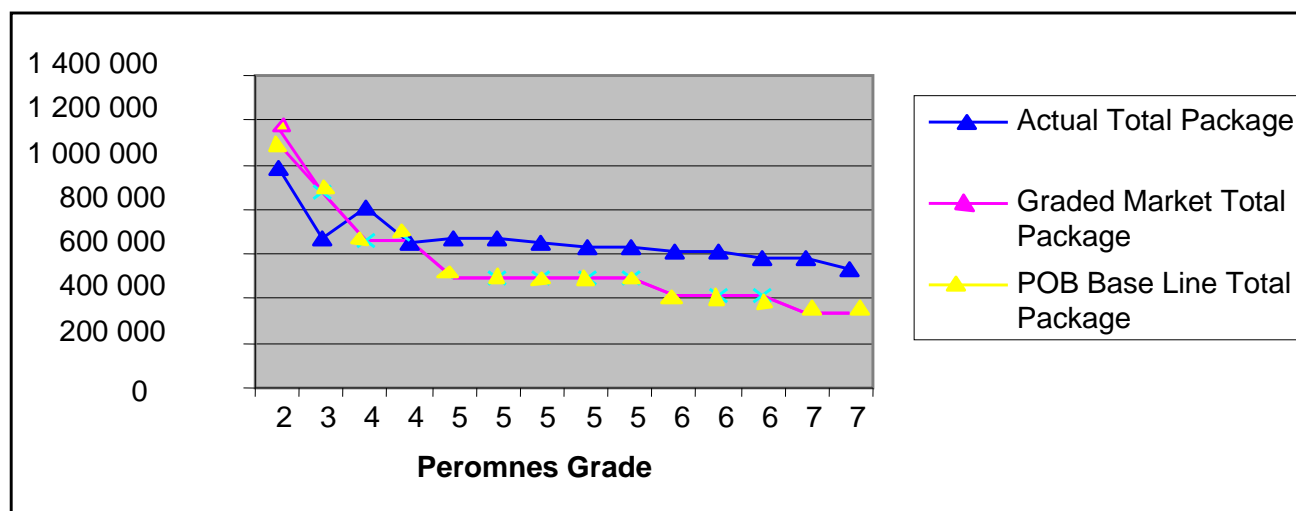
Office	Notch 1	Notch 2	Notch 3
Speaker / Chairperson	989 572	1 037 055	1 084 512
Deputy Speaker / Deputy Chairperson	811 856	850 441	889 007
Chief Whip: Majority Party / Chief Whip: NCOP / PC: President / Leader of Opposition	675 888	707 684	739 490
PC: Deputy President / House Chairperson	644 191	686 471	704 577
Chairperson of a Committee	625 476	666 433	683 973
Chief Whip: Largest Minority Party / Deputy Chief Whip: Majority Party	607 411	647 108	664 124
Leader of a Minority Party / Whip	584 250	611 817	639 031
Member of the NA / Permanent delegate to the NCOP	524 450	558 356	572 873

Figure 10: Current total remuneration of members of National Parliament



214. **Figure 11** below compares the current total remuneration paid to Members of Parliament to that of a comparable level in the private sector. In the graph, the yellow line represents the actual total packages for members of the National Parliament against the Graded Market Total Package data (bright blue) and the public office bearer base line total package (purple). In many instances, and especially towards the lower levels, the market data (total package) is below the actual total packages of public office bearers.

Figure 11: Parliament Total package comparison to market



(Deloitte & Touche; 2006)

215. The Commission has developed recommended remuneration levels, ratios, and a pay curve for public office bearer positions in the National Parliament, as depicted in **Table 20** and **Figure 12** below.

Table 20: Recommended Remuneration Table for National Parliament

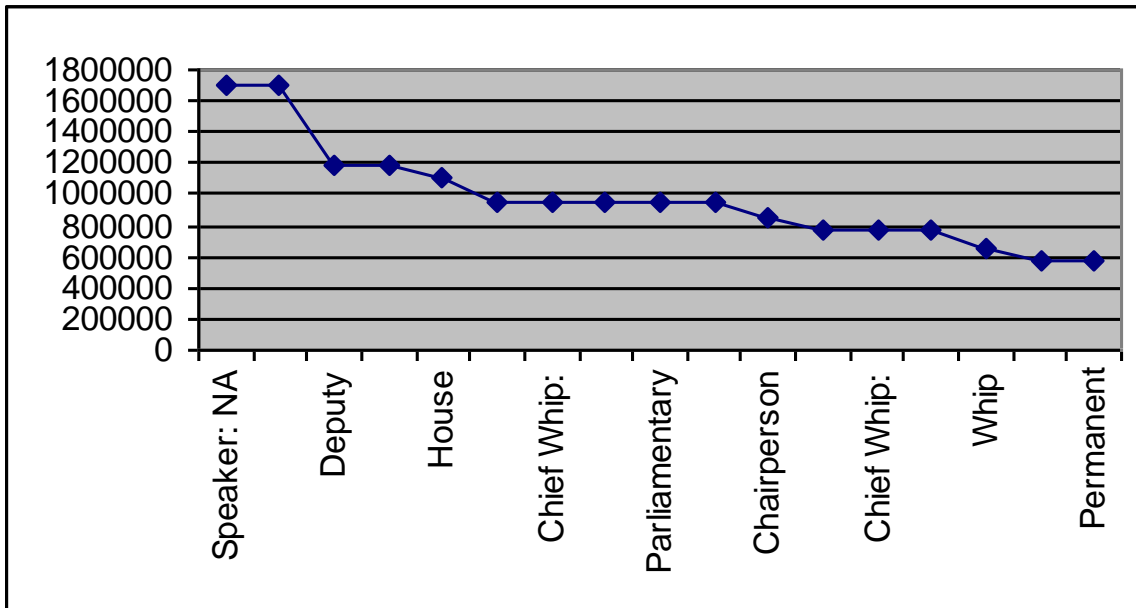
GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	SEC 8(1)(d) ALLOWANCE	INCREASE IN REMUNERATION	PROPOSED TOTAL REMUNERATION	DIFFERENCE	PERCENTAGE CHANGE		NO OF POSTS	TOTAL COST	EXPLANATION
								Sec 8(1)(d) Allowance	Remuneration			
PA	1	Speaker: NA	1 084 512	80 000	584 088	1 708 600	624 088	100	53.85	1	624 088	Anchor (A)
		Chairperson: NCOP	1 084 512	80 000	584 088	1 708 600	624 088	100	53.85	1	624 088	
PB	1	Deputy Speaker: NA	889 007	80 000	266 993	1 196 000	306 993	100	30.03	1	306 993	A - 30%
		Deputy Chairperson: NCOP	889 007	80 000	266 993	1 196 000	306 993	100	30.03	1	306 993	
	2	House Chairperson	704 577	80 000	366 023	1 110 600	406 023	100	51.95	3	1 218 069	A - 35%
PC	1	Chief Whip: Majority Party	739 490	80 000	160 210	939 700	200 210	100	21.66	1	200 210	A - 45%
		Chief Whip: NCOP	739 490	80 000	160 210	939 700	200 210	100	21.66	1	200 210	
		Parliamentary Counsel: President	739 490	80 000	160 210	939 700	200 210	100	21.66	1	200 210	
		Parliamentary Counsel: Deputy President	739 490	80 000	160 210	939 700	200 210	100	21.66	1	200 210	
		Leader of Opposition	739 490	80 000	160 210	939 700	200 210	100	21.66	1	200 210	
	2	Chairperson of a Committee	683 973	80 000	130 327	854 300	170 327	100	19.05	48	8 175 696	A - 50%
PD	1	Deputy Chief Whip: Majority Party	664 124	80 000	64 776	768 900	104 776	100	9.75	1	104 776	A - 55%
		Chief Whip: Largest Minority Party	664 124	80 000	64 776	768 900	104 776	100	9.75	1	104 776	
		Leader of a Minority Party	664 124	80 000	64 776	768 900	104 776	100	9.75	14	1 466 864	
	2	Whip	639 031	80 000	34 469	713 500	74 469	100	5.40	53	3 946 857	5.4% increase + allowance increase
PE	1	Member: NA	572 873	80 000	30 927	643 800	70 927	100	5.40	298	21 136 246	5.4% increase + allowance increase
		Permanent Delegate: NCOP	572 873	80 000	30 927	643 800	70 927	100	5.40	27	1 915 029	
TOTAL COST IMPLICATION											40 931 525	

* The value of current total remuneration packages have been calculated as set out in Annexure H, and include basic salary, motor vehicle allowance, pension and medical aid benefits.

* The basis for current package values is the total remuneration in the third notch. The % change stated above will therefore be understated in respect of those incumbents who are not currently remunerated in terms of the third notch.

** This allowance represents an increase from the current level of R40 000 per annum, which amount is included in the calculation of the current package in the previous column.

Figure 12: Recommended Remuneration Curve for National Parliament



216. It is critical to note that the amounts reflected above represent the total remuneration which is recommended for payment to public office bearers, which includes salaries, all allowances and all benefits.

PROVINCIAL LEGISLATURES

JOB PROFILING

217. After a process of initial consultation, and considering all submissions and correspondence received from representatives from each of the Provincial Legislatures, as well as subsequent in-depth role profiling consultations, job profiles were drafted for the following public office bearer positions in Provincial Legislatures:

- Premier;
- MEC;
- Speaker;
- Deputy Speaker;

- Chief Whip: Majority Party;
- Leader of Opposition;
- Chairperson of Committees;
- Chairperson of a Committee;
- Chief Whip: Largest Minority Party;
- Deputy Chief Whip: Majority Party;
- Deputy Chairperson of Committees;
- Leader of a Minority Party;
- Parliamentary Counsel to a King;
- Whip; and
- MPL.

218. These job profiles are attached hereto as **Annexure D**.

219. The aim of drafting these job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and improvements in performance of responsibilities intrinsic to each public office bearer position.

JOB GRADING

220. A vertically and horizontally integrated grading structure has been developed for all elected political office bearers, which reflects the intra- and inter-institutional relatedness amongst the different positions. The methodology applied in this regard has already been explained above.

221. The proposed grading table in respect of all political office bearer positions is attached as **Annexure I**. The grading structure is characterised by both grades and pay levels in order to distinguish between positions on the basis of their relative worth.

222. The grading results for public office bearer positions in Provincial Legislatures are as depicted in **Table 21** below.

Table 21: Grading Results for Provincial Legislatures

Grade	Pay level	Position
LA	1	Premier
LB	1	MEC Speaker
LC	1	Deputy Speaker
	2	Chief Whip: Majority Party Chairperson of Committees Leader of the Opposition
	3	Chairperson of a Committee Chief Whip: Largest Minority Party Deputy Chief Whip: Majority Party Deputy Chairperson of Committees Leader of a Minority Party
LD	1	Parliamentary Counsel to a King Whip
	2	MPL

223. The grading results formed the basis for determining the market comparison and internal relativity of salaries for these positions.

[BENCHMARKING](#)

224. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both the Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and the Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission’s hybrid model involves benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international sectors. In addition the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.

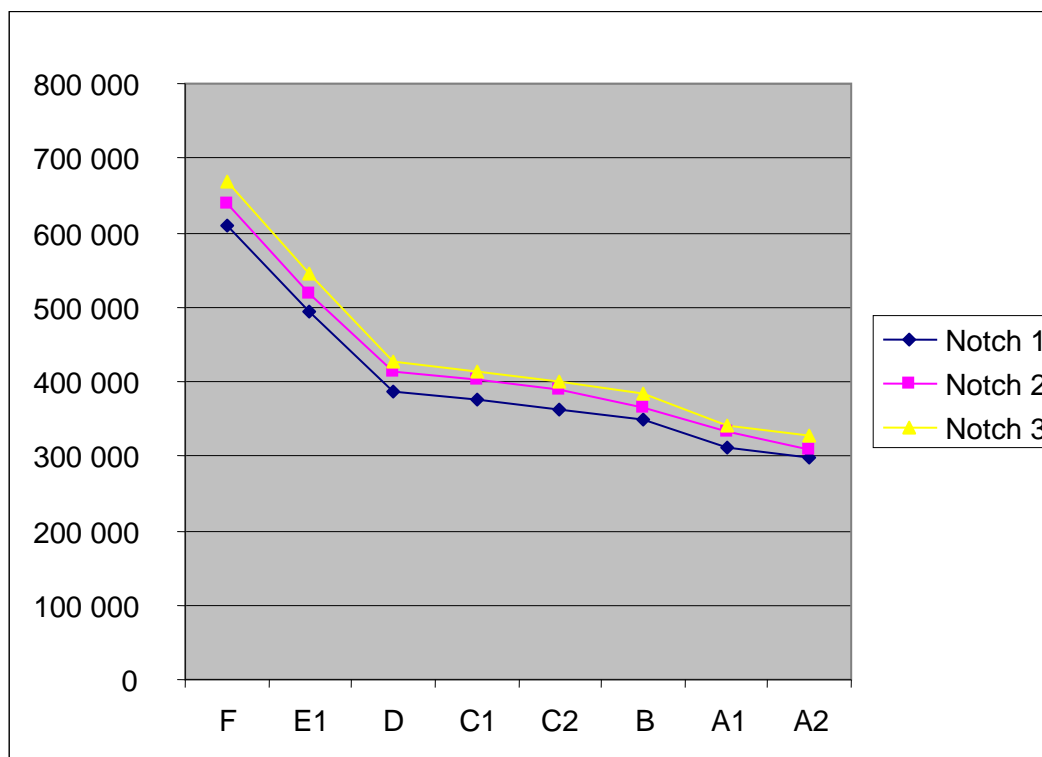
225. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in private sector, senior public service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.
226. The Commission considers the position of the Premier to be the most appropriate remuneration top level anchor position for public office bearer positions in the provincial legislature structure. In order to find an optimal benchmark for the anchor positions, the Commission considered the following:
- Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by its expert consultants that remuneration levels for a Size E private sector company would be most appropriate.
 - Benchmarking practices in countries with similar constitutional and governmental systems to South Africa show that the remuneration of the Head of State/Head of Government is at a similar or lower level as that of its Chief Justice.
 - The hierarchical relation between National, Provincial and Local spheres of government.
227. The principles eluded to in the abovementioned comprehensive submission on behalf of Parliament are equally relevant, mutatis mutandis, to public office bearers in Provincial Legislatures. In addition thereto the Commission considers it essential to establish a vertically and horizontally integrated structure for elected political office bearers in national, provincial and local spheres, and across executive and legislative arms of government. In following this principle it is therefore important to consider benchmarks established in respect of public office bearer positions in the National Executive, as an important input towards the establishment of an intergraded framework for elected political office bearers.

228. One of the most contentious aspects of the current remuneration structure in respect of political office bearers is the inconsistencies in the notch progression remuneration system, in terms of which incumbents progress to higher notches as a result of, essentially, the time served in those positions. Progression to higher notches occurs as follows:

- Notch One applies to all members of the Provincial Legislature who are not re-elected members.
- Notch Two applies to all re-elected members (except Notch Three members).
- Notch Three applies to all re-elected members who have occupied their current office or an office in the same or a higher grade for a period of at least twenty four months in total.

229. **Figure 13** below indicates the difference in basic salaries between the three notches.

Figure 13: Comparison between basic salaries within Notches



230. The difference between the same grade salaries in the different notches varies between three and seven percent. The typical difference between Notch one and two salaries is seven percent and between Notch two and three is three percent. These ranges may inform the spread for a proposed performance-based salary progression system.
231. The Commission found that the practice of basing remuneration progression on a notch system is both archaic and counterproductive in terms of modern trends towards performance-based remuneration. The Commission is therefore of the view that the current notch system of remuneration should be abolished in favour of a remuneration system, within which incumbents could progress on the basis of performance and achievement of institutional goals.
232. Having established appropriate benchmarks for the anchor positions of the President, ratios were determined for the remaining institutional positions, after taking into consideration:
- The extent of job evaluation and grading differences;
 - Location on or close to the public office bearer pay line developed by the Commission's consultants;
 - Consistency in the rates of spread between top and bottom remuneration levels in institutions; and
 - Creating room for aspiration and career progression within an institution.
233. **Table 22** below reflects the ratios at which the Commission proposes the location of public office bearer positions in Provincial Legislatures.

Table 22: Remuneration ratios in relation to institutional anchor

Grade	Pay level	Position	Ratio to anchor
LA	1	Premier	PA1 – 20%
LB	1	MEC Speaker	PA1 – 30%
LC	1	Deputy Speaker	PA1 – 45%
	2	Chief Whip: Majority Party Chairperson of Committees Leader of the Opposition	PA1 – 50%
	3	Chairperson of a Committee Chief Whip: Largest Minority Party Deputy Chief Whip: Majority Party Deputy Chairperson of Committees Leader of a Minority Party	PA1 – 62%
LD	1	Parliamentary Counsel to a King Whip	PA1 – 66%
	2	MPL	PA1 – 67.5%

PAY LEVELS

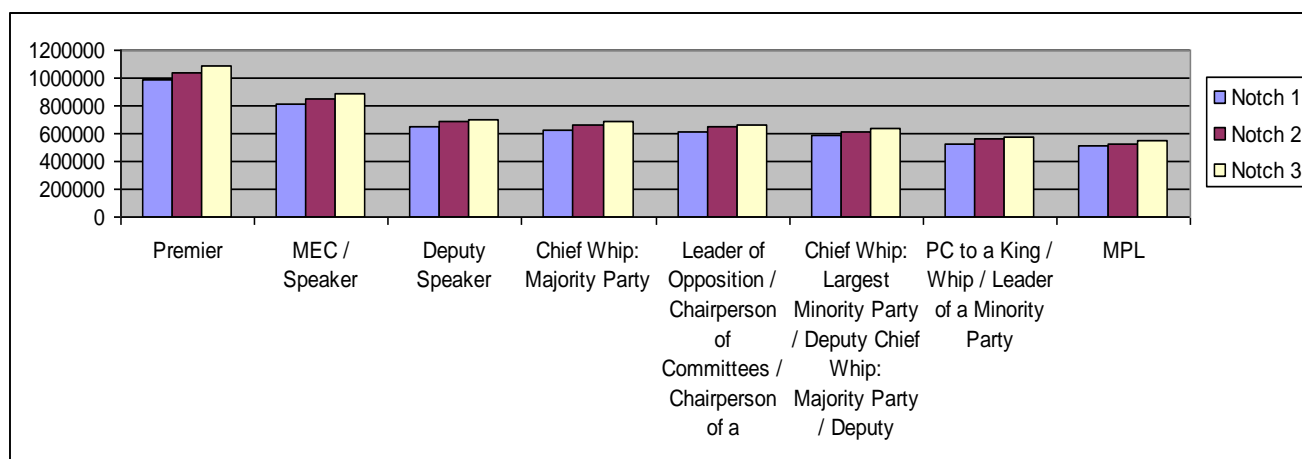
234. The President determines the upper limit of salaries and allowances for members of the Provincial Legislatures, while the Province concerned may determine the salaries within the limitations of the upper limits. The salaries and allowances are charged against and are paid from the budget of the Province concerned. Currently, Members of a Provincial Legislature receive a basic salary, pension, medical aid and motor allowance. As with Members of the National Parliament, the basic salaries of Members of the Provincial Legislature include the amount of R40 000 per annum as the amount to which section 8(1)(d) of the Income Tax Act, 1962 applies.
235. Having completed the required job evaluations, established horizontally and vertically integrated grading structures, and having determined optimal benchmarks for public office bearer remuneration, the next step in the Commission’s review process is to recommend actual pay levels for each public office bearer position.
236. The current total remuneration of public office bearer positions in Provincial Legislatures is as set out in **Table 23** and **Figure 14** below. Based on the

grading and market data per grade, it appears that the majority of members of the Provincial Legislatures are being overpaid. The pension fund benefit is regarded as being very favourable when compared with the general market.

Table 23: Current total remuneration of members of Provincial Legislatures

Office	Notch 1	Notch 2	Notch 3
Premier	989 572	1 037 055	1 084 512
MEC / Speaker	811 856	850 441	889 007
Deputy Speaker	644 191	686 471	704 577
Chief Whip: Majority Party	625 476	666 433	683 973
Leader of Opposition / Chairperson of Committees / Chairperson of a Committee	607 411	647 108	664 124
Chief Whip: Largest Minority Party / Deputy Chief Whip: Majority Party / Deputy Chairperson of Committees	584 250	611 817	639 031
PC to a King / Whip / Leader of a Minority Party	524 450	558 356	572 873
MPL	506 572	520 568	553 216

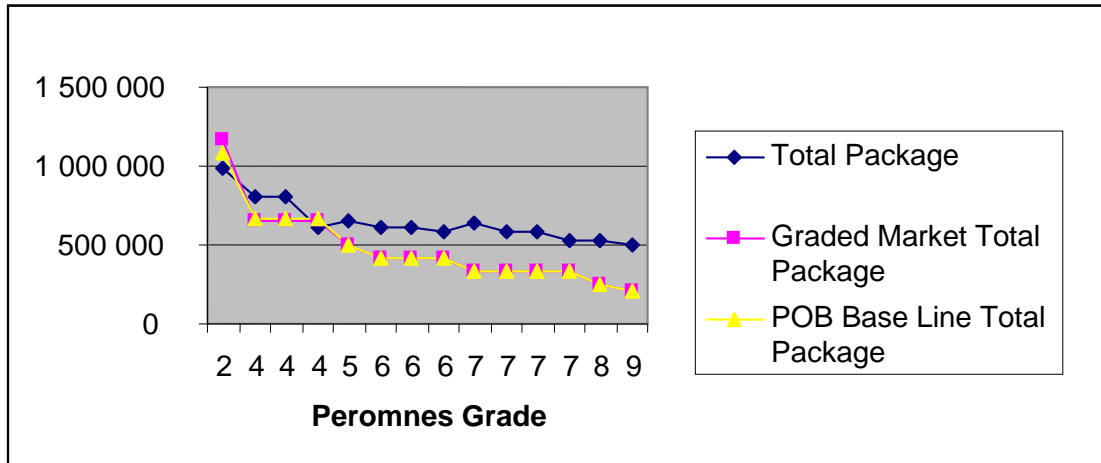
Figure 14: Current total remuneration of members of Provincial Legislatures



237. **Figure 15** exhibit the comparison between the current Provincial Legislature upper limits (notch 2) and market information. Based on the

Peromnes grades and the market data for those grades, most members in the Provincial Legislature in the lower levels are being paid compared to the suggested market comparators.

Figure 15: Provincial Legislature Total Package comparison to Market



(Deloitte & Touche; 2006)

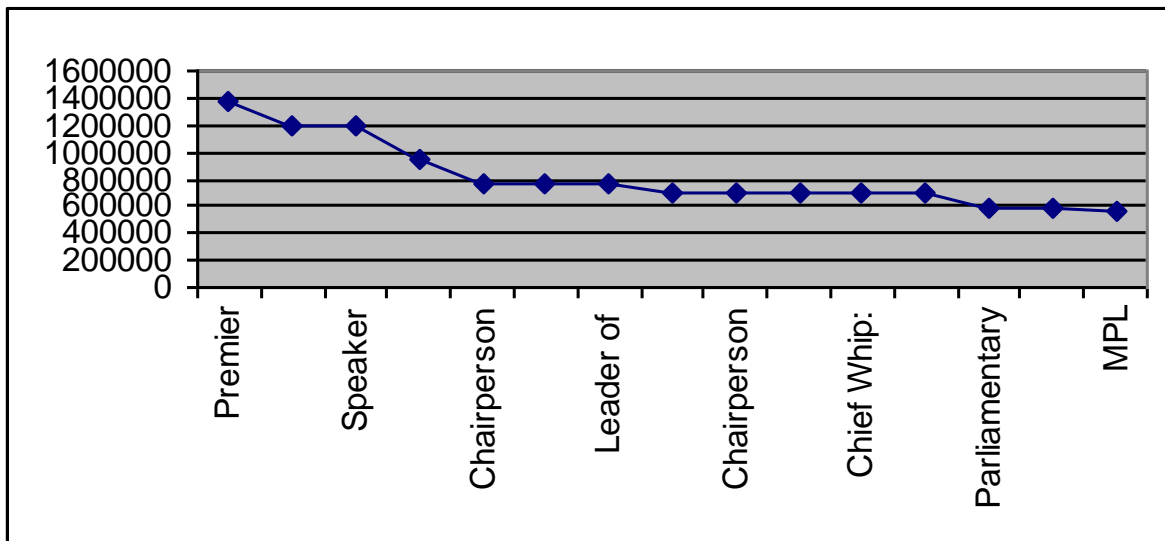
238. The Commission has developed recommended remuneration levels, ratios, and a pay curve for public office bearer positions in Provincial Legislatures, as depicted in **Table 24** and **Figure 16** below.

Table 24: Recommended Remuneration Table for Provincial Legislatures

GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	SEC 8(1)(d) ALLOWANCE	INCREASE IN REMUNERATION	PROPOSED TOTAL REMUNERATION	DIFFERENCE	PERCENTAGE CHANGE		EXPLANATION
								Sec 8(1)(d) Allowance	Remuneration	
LA	1	Premier	1 084 512	80 000	242 388	1 366 900	282 388	100	22.35	A - 20%
LB	1	MEC	889 007	80 000	266 993	1 196 000	306 993	100	30.03	A - 30%
		Speaker	889 007	80 000	266 993	1 196 000	306 993	100	30.03	
LC	1	Deputy Speaker	739 490	80 000	160 210	939 700	200 210	100	21.66	A - 45%
		Chairperson of Committees	664 124	80 000	64 776	768 900	104 776	100	9.75	A - 55%
		Chief Whip: Majority Party	664 124	80 000	64 776	768 900	104 776	100	9.75	
		Leader of Opposition	664 124	80 000	64 776	768 900	104 776	100	9.75	
		Deputy Chairperson of Committees	639 031	80 000	44 369	723 400	84 369	100	6.94	A - 60%
		Chairperson of a Committee	639 031	80 000	44 369	723 400	84 369	100	6.94	
		Deputy Chief Whip: Majority Party	639 031	80 000	44 369	723 400	84 369	100	6.94	
		Chief Whip: Largest Minority Party	639 031	80 000	44 369	723 400	84 369	100	6.94	
		Leader of a Minority Party	639 031	80 000	44 369	723 400	84 369	100	6.94	
		Parliamentary Counsel to a King	572 873	80 000	30 927	643 800	70 927	100	5.4	5.4% increase + allowance increase
LD	1	Whip	572 873	80 000	30 927	643 800	70 927	100	5.4	
		MPL	553 216	80 000	29 884	623 100	69 884	100	5.4	5.4% increase + allowance increase

- * The value of current total remuneration packages have been calculated as set out in Annexure H, and include basic salary, motor vehicle allowance, pension and medical aid benefits.
- * The basis for current package values is the total remuneration in the third notch. The % change stated above will therefore be understated in respect of those incumbents who are not currently remunerated in terms of the third notch.
- ** This allowance represents an increase from the current level of R40 000 per annum, which amount is included in the calculation of the current package in the previous column.

Figure 16: Recommended Remuneration Curve for Provincial Legislatures



239. It is critical to note that the amounts reflected above represent the upper limits of the total remuneration which is recommended for payment to public office bearers, which includes salaries, all allowances and all benefits.

LOCAL GOVERNMENT

240. It is important to note that the Commission is statutorily mandated to only make recommendations regarding the upper limits of the salaries, allowances and benefits of public office bearer positions in local government institutions, and that the determination of remuneration throughout all levels of local government institutions is the prerogative of the Minister for Provincial and Local Government. The Minister has published remuneration determinations in this regard on 31 June 2006, which were based on a similar review of Councilor remuneration conducted during 2005 and 2006. This determination addressed the inequities in and levels of Councilor remuneration in the same way as is intended by the Commission's current review. The Commission therefore does not intend to duplicate the major review of Councilor remuneration, which has already led to significant and corrective remuneration adjustments at the end of June 2006.

241. The Minister for Provincial and Local Government determines the upper limit of salaries and allowances for members of local government institutions, while the Council may determine salaries within those limitations. Salaries and allowances are charged against and are paid from the budget of the municipality concerned.

242. There are six levels of Municipalities in South Africa, with the number of points allocated for rates income and the number of registered voters determining the grade of the Municipality. The highest grade Municipality is at Grade 6 and the lowest grade is at Grade 1. Salaries of councillors vary depending on the grade of the applicable Municipality. Municipalities have full-time and part-time councillors. A full-time councillor is a councillor who

has been elected or appointed to an office that has been designated as full-time. A part-time councillor is a councillor other than a full-time councillor.

JOB PROFILING

243. After a process of initial consultations, and considering all submissions and correspondence received from representatives from the South African Local Government Association (SALGA), as well as subsequent in-depth role profiling consultations, job profiles were drafted for the following public office bearer positions in Provincial Legislatures:

- Executive Mayor;
- Mayor;
- Deputy Executive Mayor;
- Deputy Mayor;
- Speaker;
- MEC;
- MMC;
- Chairperson of a sub council;
- Whip; and
- Municipal Councillor.

244. These job profiles are attached hereto as **Annexure D**.

245. The aim of drafting these job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and improvements in performance of responsibilities intrinsic to each public office bearer position.

JOB GRADING

246. A vertically and horizontally integrated grading structure has been developed for all elected political office bearers, which reflects the intra- and inter-institutional relatedness amongst different positions. The methodology applied in this regard has already been explained above.
247. The proposed grading table in respect of all political office bearer positions is attached as **Annexure I**. The grading structure is characterised by both grades and pay levels in order to distinguish between positions on the basis of their relative worth.
248. The grading results for public office bearer positions in the Local Government institutions are as depicted in **Table 25** below.

Table 25: Grading Results for Local Government

Grade	Pay level	Position
MA	1	Executive Mayor Mayor
MB	1	Deputy Executive Mayor Deputy Mayor Speaker
MC	1	MEC MMC Chairperson of a sub-council Whip
MD	1	Municipal Councillor

249. The grading results formed the basis for determining the market comparison and internal relativity of salaries for these positions.

BENCHMARKING

250. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both a Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and a Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission's hybrid model involves benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international sectors. In addition the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.
251. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in private sector, senior public service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.
252. The Commission considers the position of Executive Mayor to be the most appropriate remuneration top level anchor position for public office bearer positions in the Local Government structures. In order to find an optimal benchmark for the anchor positions, the Commission considered the following:
- Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by its expert consultants that remuneration levels for a Size E private sector company would be most appropriate.
 - Benchmarking practices in countries with similar constitutional and governmental systems to South Africa shows that the remuneration of the

Head of State/Head of Government is at a similar or lower level as that of its Chief Justice.

- The hierarchical relation between National, Provincial and Local spheres of government.

253. One of the most contentious aspects of the current remuneration structure in respect of political office bearers is the inconsistencies in the notch progression remuneration system, in terms of which incumbents progress to higher notched as a result of, essentially, the time served in those positions. The Commission found that the practice of basing remuneration progression on a notch system is both archaic and counterproductive in terms of modern trends towards performance based remuneration. The Commission is therefore of the view that the current notch system of remuneration should be abolished in favour of salary ranges for each position, within which incumbents could progress on the basis of performance and achievement of institutional goals. Similarly, the Commission is of the firm view that longevity in public office should not primarily be rewarded through a notch progression system that is not necessarily performance related, but rather through appropriate pension payouts.

254. The principles eluded to in the abovementioned comprehensive submission on behalf of Parliament are equally relevant, mutatis mutandis, to public office bearers in Local Government institutions. In addition thereto the Commission considers it essential to establish a vertically and horizontally integrated structure for elected political office bearers in national, provincial and local spheres, and across executive and legislative arms of government. In following this principle it is therefore important to consider benchmarks established in respect of public office bearer positions in the National Executive, as an important input towards the establishment of an intergraded framework for elected political office bearers.

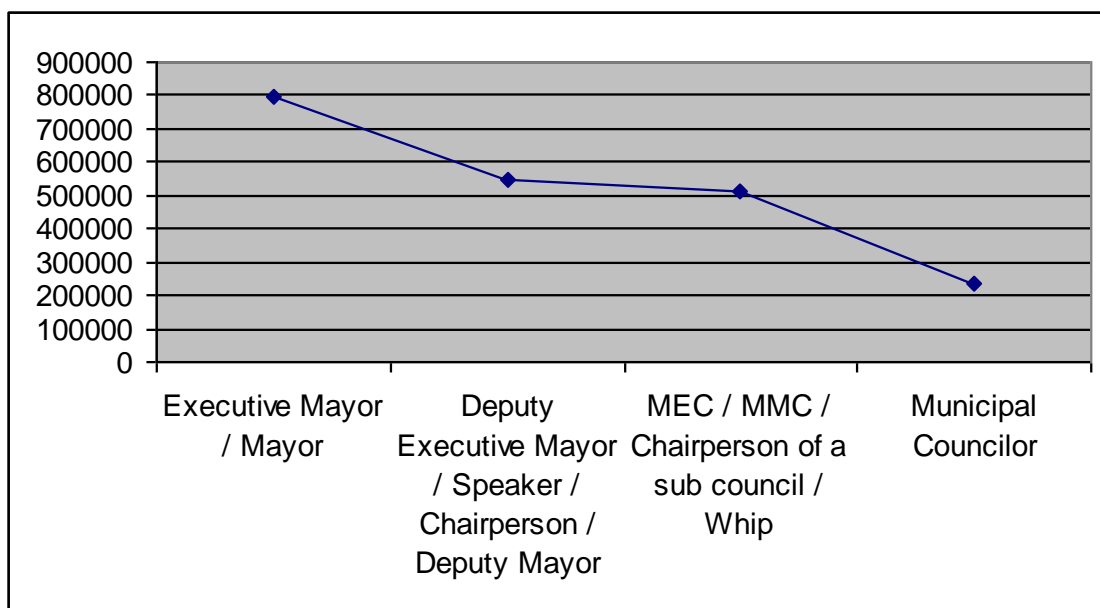
[PAY LEVELS](#)

255. The current upper limits of total remuneration of public office bearers in Local Government institutions are set out in **Table 26** and **Figure 17** below.

Table 26: Current total remuneration of Local Government office-bearers

Office	Grade	Total remuneration
Executive Mayor / Mayor	6	794 217
Deputy Executive Mayor / Speaker / Chairperson / Deputy Mayor	6	544 122
MEC / Chairperson of a sub council / MMC / Whip	6	510 114
Municipal Councilor	6	238 053

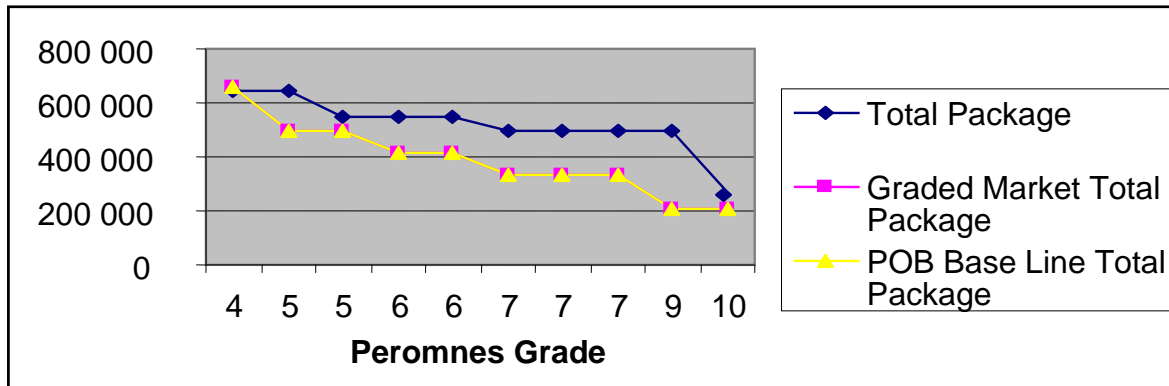
Figure 17: Current total remuneration of Local Government office-bearers



256. Based on the grading and market data per grade, as reflected in **Figure 18** below, the rates of Executive Mayor / Mayor and the Deputy Executive Mayor / Mayor of a grade 6 municipal structure are close to the national market rates when considering the total package cost figures. All other

positions of public office bearers in this municipal structure appear to be significantly overpaid compared to the suggested market comparators.

Figure 18: Local Government Total Package comparison to Market



(Deloitte & Touche; 2006)

257. The Commission did not develop any remuneration tables, ratios, or pay curves for public office bearer positions in Local Government, as a result of the major remuneration review thereof conducted in 2006, which resulted in the determination of appropriate remuneration levels in Local Government in June 2006.

258. The Commission therefore only recommends an annual cost-of-living adjustment to the total remuneration of members of Local Government institutions, as set out in **Table 27** below.

Table 27: Total Remuneration Table for members of Local Government institutions

GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	SEC 8(1)(d) ALLOWANCE	INCREASE IN REMUNERATION	PROPOSED TOTAL REMUNERATION	DIFFERENCE	PERCENTAGE CHANGE		EXPLANATION
								Sec 8(1)(d) Allowance	Remuneration	
MA	1	Executive Mayor	680 152	80 000	36 748	756 900	76 748	100	5.40	5.4% increase + allowance increase
		Mayor	680 152	80 000	36 748	756 900	76 748	100	5.40	
MB	1	Deputy Executive Mayor	544 122	80 000	29 378	613 500	69 378	100	5.40	5.4% increase + allowance increase
		Speaker / Chairperson	544 122	80 000	29 378	613 500	69 378	100	5.40	
		Deputy Mayor	544 122	80 000	29 378	613 500	69 378	100	5.40	
MC	2	MEC	510 114	80 000	27 586	577 700	67 586	100	5.40	5.4% increase + allowance increase
		MMC	510 114	80 000	27 586	577 700	67 586	100	5.40	
		Chairperson of a sub-council	510 114	80 000	27 586	577 700	67 586	100	5.40	
		Whip	510 114	80 000	27 586	577 700	67 586	100	5.40	
MD	1	Municipal Councilor	238 053	80 000	12 847	290 900	52 847	100	5.40	5.4% increase + allowance increase

* The value of current total remuneration packages have been calculated as set out in Annexure H, and include basic salary, motor vehicle allowance, cellular phone allowance, pension and medical aid benefits.

* The basis for current package values is the total remuneration in the third notch. The % change stated above will therefore be understated in respect of those incumbents who are not currently remunerated in terms of the third notch.

** This allowance represents an increase from the current level of R40 000 per annum, which amount is included in the calculation of the current package in the previous column.

TRADITIONAL LEADERSHIP POSITIONS

JOB PROFILING

259. Drafting job profiles for some positions in the Traditional Leadership structure proved to be difficult, as a result of the fact that some positions are based on lineage and not necessarily on the performance of clearly defined functions, and others on normal office holder duties. These issues were however extensively debated with the relevant stakeholders, and duly considered by the Commission before adopting the applicable job profiles for inclusion in its report and recommendations.

260. Job profiles were drafted for the following public office bearer positions in Traditional Leadership structures:

- King;
- Chairperson NHTL;
- Deputy Chairperson NHTL;
- Chairperson PHTL;
- Deputy Chairperson PHTL;
- Member NHTL;
- Member PHTL;
- Senior Traditional Leader; and
- Headman.

261. These job profiles are attached hereto as **Annexure D**.

262. The aim of drafting these job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and improvements in performance of responsibilities intrinsic to each public office bearer position.

JOB GRADING

263. A vertically integrated grading structure has been developed for all office bearers in the Traditional Leadership structure, which reflects, amongst other things, the differences between office-holder and lineage positions, as well as the intricate relationships amongst those positions.

264. The grading results for public office bearer positions in the Traditional Leadership structure are depicted in **Table 28** below.

Table 28: Grading Results for Traditional Leaders

Grade	Pay level	Position
TA	1	King / Queen
TB	1	Chairperson NHTL
	2	Chairperson PHTL
	3	Deputy Chairperson NHTL
	4	Deputy Chairperson PHTL
TC	1	Member NHTL
	2	Member PHTL
TD	1	Senior Traditional Leader
	2	Headman

265. The grading results formed the basis for determining the market and other comparisons, as well as internal relativity of salaries for these positions.

BENCHMARKING

266. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both the Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and the Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission's hybrid model involves benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international sectors. In addition the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.

267. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in private sector, senior public

service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.

268. The Commission considers it appropriate to make a distinction between full-time and part-time positions, which would inevitably have to be treated very differently for remuneration purposes. The full-time and part-time positions, their respective anchors, and the proposed ratios for the remuneration of the remaining full-time positions in relation to the anchors, are reflected in **Table 29** below.

Table 29: Remuneration ratios in relation to institutional anchor

Grade	Pay level	Position	Ratio to anchor
TA	1	King / Queen	Anchor
TB	1	Chairperson NHTL	TA1 – 15%
	2	Chairperson PHTL	TA1 – 30%
	3	Deputy Chairperson NHTL	TA1 – 35%
	4	Deputy Chairperson PHTL	TA1 – 40%
TC	1	Member NHTL	TA1 – 65%
	2	Member PHTL	TA1 – 70%
TD	1	Senior Traditional Leader	TA1 – 78%
	2	Headman	NIL

269. In order to find an optimal benchmark for the anchor positions, the Commission considered the following:

- Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by its expert consultants that remuneration levels for a Size E private sector company would be most appropriate;
- Benchmarking practices in countries with similar constitutional and governmental systems as South Africa shows that the remuneration of the Head of State/Head of Government is at a similar or lower level as that of its Chief Justice; and
- The hierarchical relation between National, Provincial and Local spheres of government.

270. The principles eluded to in the abovementioned comprehensive submission on behalf of Parliament are equally relevant, mutatis mutandis, to public office bearers in the Traditional Leadership structures. In addition thereto the Commission considers it essential to establish a vertically and horizontally integrated structure for elected political office bearers at national, provincial and local spheres, and across executive and legislative arms of government. In following this principle it is therefore important to consider benchmarks established in respect of public office bearer positions in the National Executive, as an important input towards the establishment of an intergraded framework for elected political office bearers.

271. Having thus established appropriate benchmarks for the anchor position, ratios were determined for the remaining institutional positions, after taking into consideration:

- The extent of job evaluation and grading differences;
- Location on or close to the public office bearer pay line developed by the Commission's consultants;
- Consistency in the rates of spread between top and bottom remuneration levels in institutions;
- Creating room for aspiration and career progression within an institution; and
- The outright comparison of these roles for benchmark purposes is difficult. The relationship of traditional leaders may be closer to the Non-Executive Director type relationship held within the private sector than an employer / employee relationship. The remuneration for the Kings / Senior Traditional Leaders / Headmen roles within the Institution of Traditional Leadership is based on different norms and standards that have to be dealt with in the context of the Constitution.

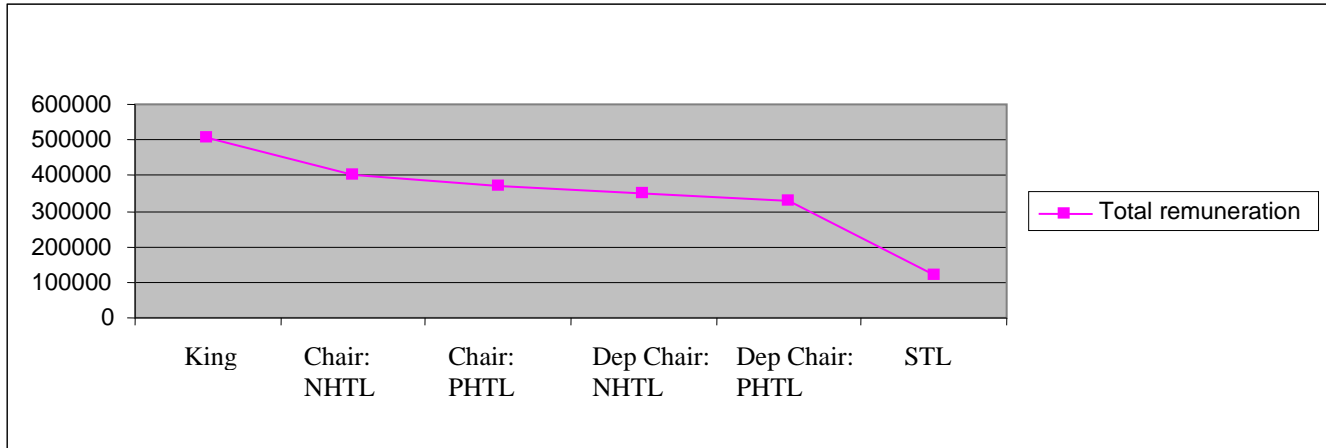
PAY LEVELS

272. Having completed the required job evaluations, established horizontally and vertically integrated grading structures, and having determined optimal benchmarks for public office bearer remuneration, the next step in the Commission's review process is to recommend actual pay levels for each public office bearer position.
273. The current total remuneration of the public office bearer positions in the Traditional Leadership structures is as set out in **Table 30** and **Figure 19** below. The current remuneration packages of Traditional Leaders exclude any benefits, and require to be re-considered in respect of newly-created full-time office holder positions within the National and Provincial Houses of Traditional Leaders.

Table 30: Current total remuneration of Traditional Leaders

Office	Total remuneration
King / Paramount Chief	507 038
Chairperson NHTL	403 033
Chairperson PHTL	369 035
Deputy Chairperson NHTL	349 875
Deputy Chairperson PHTL	328 252
Senior Traditional Leader	121 702
Member: NHTL	121 702 + allowances
Member: PHTL	121 702 + allowances

Figure 19: Current total remuneration of Traditional Leaders



274. Section 5(2) of the Remuneration of Public Office Bearers Act, 1998, states that a traditional leader is, in addition to a salary as traditional leader, entitled to an allowance as determined by the President by proclamation in the Gazette, in respect of his / her membership of a provincial House of Traditional Leaders, the Council of Traditional Leaders and a Municipal Council. Full-time members are however only entitled to the single highest salary in respect of the two appointments. In addition to the salaries and allowances discussed above, Traditional Leaders may claim actual and reasonable expenses for the purpose of subsistence. It is recommended that a market-related salary structure that is based on a flexible total remuneration package, which includes benefits such as medical aid contributions, pensions fund contributions, group life contributions and motor vehicle allowances, is implemented in respect of Traditional Leadership positions.

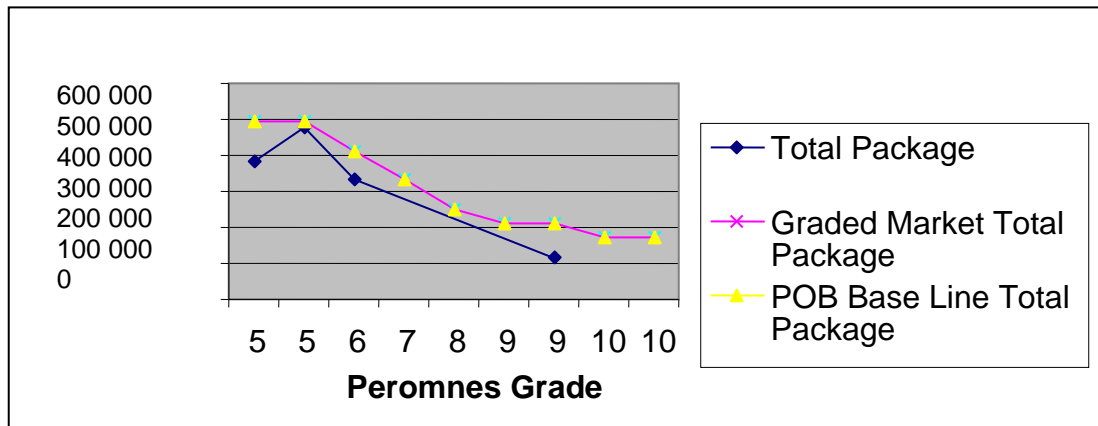
275. **Table 31** and **Figure 20** below compare current Traditional Leadership remuneration with salaries paid to comparable positions in the Market.

Table 31: Current Traditional Leader remuneration comparison to Market

Title	Peromnes Grade	Total Package	Graded Market Total Package	C/R Graded Tables	POB Base Line Total Package	C/R Relativity
Chairperson: NHTL	5	R 381 118	R 494 186	77%	R 494 186	77%
King	5	R 479 469	R 494 186	97%	R 494 186	97%
Deputy Chairperson: NHTL	6	R 330 850	R 412 707	80%	R 412 707	80%
Chairperson: PHTL	7	R 0	R 332 761	0%	R 332 761	0%
Deputy Chairperson: PHTL	8	R 0	R 252 639	0%	R 252 639	0%
Member of NHTL	9	R 0	R 209 780	0%	R 209 780	0%
Senior Traditional Leader	9	R 115 086	R 209 780	55%	R 209 780	55%
Headman	10	R 0	R 170 543	0%	R 170 543	0%
Member of PHTL	10	R 0	R 170 543	0%	R 170 543	0%

(Deloitte & Touche; 2006)

Figure 20: Traditional Leader remuneration comparison to Market



(Deloitte & Touche; 2006)

276. Based on the Peromnes grades and the market data the comparative ratios above indicate that the remuneration levels for Total Packages are below the market rates.

277. The Commission has developed recommended remuneration levels, ratios, and a pay curve for public office bearer positions in the Traditional Leadership structures, depicted in **Table 32** and **Figure 21** below.

Table 32: Recommended Remuneration Table for Traditional Leaders

GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	PROPOSED PACKAGE	DIFFERENCE	% CHANGE	NO. OF POSTS	TOTAL COST	EXPL

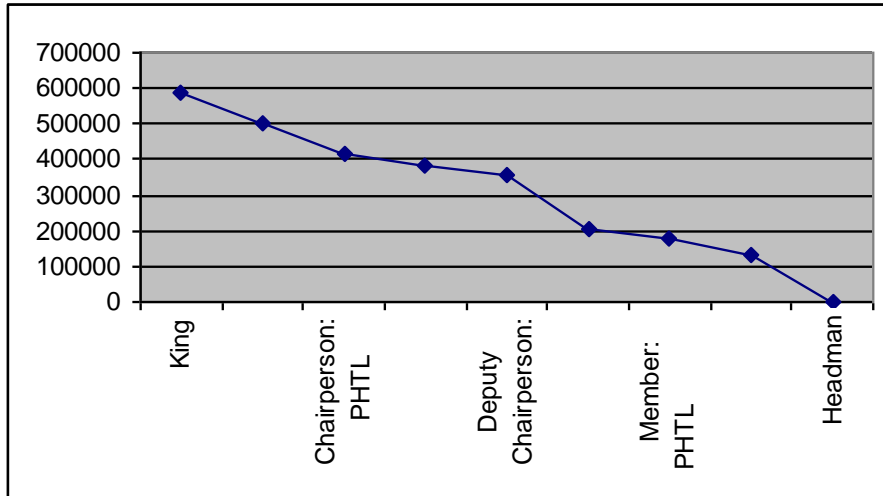
TA	1	King	507 038	590 400	83 362	16.44	12	1 000 344	Anchor (A)
TB	1	Chairperson: NHTL	403 033	501 800	98 767	24.51	1	98 767	A - 15%
	2	Chairperson: PHTL	369 035	413 300	44 265	11.99	6	265 590	A - 30%
	3	Deputy Chairperson: NHTL *	349 875	383 800	33 925	9.7	1	33 925	A - 35%
	4	Deputy Chairperson: PHTL *	328 252	354 200	25 948	7.9	6	155 688	A - 40%
TC	1	Member: NHTL *	121 702	206 600	84 898	69.76	16	1 358 368	A - 65%
	2	Member: PHTL *	121 702	177 100	55 398	45.52	192	10636 416	A - 70%
TD	1	Senior Traditional Leader	121 702	129 900	8 198	6.74	760	6 230 480	A - 78%
	2	Headman	0	0	0	0	20000	0	
TOTAL COST IMPLICATION **								19 779 578	

* Part-time office bearers will only receive current allowances plus 5.40%

** Total cost implication will be minimised as a result of the number of part-time office bearers, and current expenditure on allowances

*** The value of current total remuneration packages have been calculated as set out in Annexure H.

Figure 21: Recommended Remuneration Curve for Traditional Leaders



278. It is critical to note that the amounts reflected above represent the total remuneration which is recommended for payment to public office bearers, which includes salaries, all allowances and all benefits. This however does not apply to part-time office-holders in the National and Provincial Houses of Traditional Leaders, who should remain entitled to current salaries and

allowances for attendance of formal meetings of the respective Houses, adjusted by 5.75% to accommodate cost-of-living changes.

279. Judges have a crucial role to play in upholding the rule of law and the exercise of public power, which goes to the heart of a constitutional democracy. Under the doctrine of separation of powers, laws are made by Parliament, implemented by the Executive, and interpreted and where necessary tested for legality, by the Judiciary. The Judiciary, as a third arm of government exercises judicial power. The Constitution specifically provides that Courts are independent. Without the foundational safeguard of an independent judiciary that is accountable to the Constitution and its aspiration to uphold these values, there can be no democracy and there will be no check upon the exercise of executive power. Judges must therefore be completely independent, not only from outside interference, but from financial pressure and concerns about provision for retirement. In 1997 the Supreme Court of Canada in the so-called PEI Case²¹ listed the following core characteristics of judicial independence, which is universally considered as the most authoritative statement in this regard:

- Security of tenure;
- Financial security;
- Administrative independence;
- A depoliticised relationship between judges and the executive and legislative branches of government. This implies that:
 - There should be no changes to judicial remuneration without a prior independent and effective process for determining judicial remuneration;
 - Members of the judiciary should never engage in remuneration negotiations with the executive or the legislature. To do so would be fundamentally at odds with the principle of judicial independence.
 - Judicial salaries may not be reduced below a minimum level.

²¹ *Reference re Remuneration of Judges [1998] 1 S.C.R. 3*

280. Previously individuals who had reached the pinnacle of their careers in the legal profession were considered for appointment as Judges. At this life stage individuals were motivated more by the status and the recognition of one's achievement and credibility within the legal profession. There is however a need to attract Judges from a younger and more diverse talent pool. The ability to persuade these potential candidates to abandon their careers therefore becomes an important factor in remuneration management processes. It appears that the current remuneration policies are restrictive in achieving this objective.
281. The judicial authority of the Republic is vested in the courts, which are independent, and subject only to the Constitution and the law. The law must be applied impartially and without fear, favour or prejudice. No organ of state or person may interfere with the functioning of the courts.

JOB PROFILING

282. Job profiles were drafted for all of the below-mentioned public office bearer positions in the judiciary, including all categories of Judges and Magistrates, after a process of initial consultations, and considering all submissions and correspondence received from representative Judges, Magistrates and other relevant stakeholders, as well as subsequent in-depth role profiling consultations.
- Chief Justice;
 - Deputy Chief Justice;
 - President: Supreme Court of Appeal;
 - Deputy President: Supreme Court of Appeal;
 - Judge of the Constitutional Court;
 - Judge of the Supreme Court of Appeal;
 - Judge President of a High Court;
 - Judge President of a Labour Court;

- Deputy Judge President of a High Court;
- Deputy Judge President of a Labour Court;
- Judge of a High Court;
- Judge of a Labour Court;
- Special Grade Chief Magistrate;
- Regional Court President;
- President of a Divorce Court;
- Regional Magistrate;
- Chief Magistrate;
- Presiding Officer: Divorce Court;
- Senior Magistrate; and
- Magistrate.

283. These job profiles are attached hereto as **Annexure D**.

284. The aim of drafting these job profiles was to establish a basis for job evaluation, grading and benchmarking of public office bearer positions for remuneration purposes, but could also assist at a secondary level in respect of job clarity and improvements in performance of responsibilities intrinsic to each public office bearer position.

Judges

285. Taking into account the transformation process at the judicial level, it seems necessary that the structure of the benefits / package starts to reflect the change in profile and needs of judges. While the role of a judge remains the same, there appears to be a changing profile of person who is selected to become a judge. The person is likely to be younger, and will be selected from a broader sphere of legal professionals (not only those admitted to the Bar, as was the case in the past).

286. There is a hierarchy of judicial positions despite there being a broad similarity of work. Notionally, a higher status is accorded to more senior

judges, but there is no significant difference in the nature of the required tasks amongst judicial positions. Judges are career professionals, and their salaries need to be competitive with the salaries paid to similarly skilled and experienced practitioners in the private sector, which constitutes the greatest pool for attraction of new judges. There is a critical difference between Political Office Bearers and Judicial Office Bearers, which needs to be retained if the constitutional democracy and the rule of law are to be upheld in South Africa.

287. Remuneration for Judges should be commensurate with the dignity of their profession and burden of their responsibilities. Recognition of the role and the value they add to the democratic process has to be recognised and therefore should be reflected in the remuneration of judicial office bearers. It is an acknowledged principle that adequate remuneration should be paid in order to shield judges "from pressures aimed at influencing their decisions and more generally their behaviour."
288. Historically it appears that the structure of Judges' pay has been geared to attract and remunerate people who have made a technical and financial success of a legal career, and who have gained years of experience in so doing. These people were typically 15 years away from retirement i.e. 50 to 55 years old. It has already been indicated above that this position is changing rapidly in South Africa.
289. The attraction and retention of talent into the Judiciary constitutes one of the most critical considerations in the establishment of a remuneration approach for the judiciary.

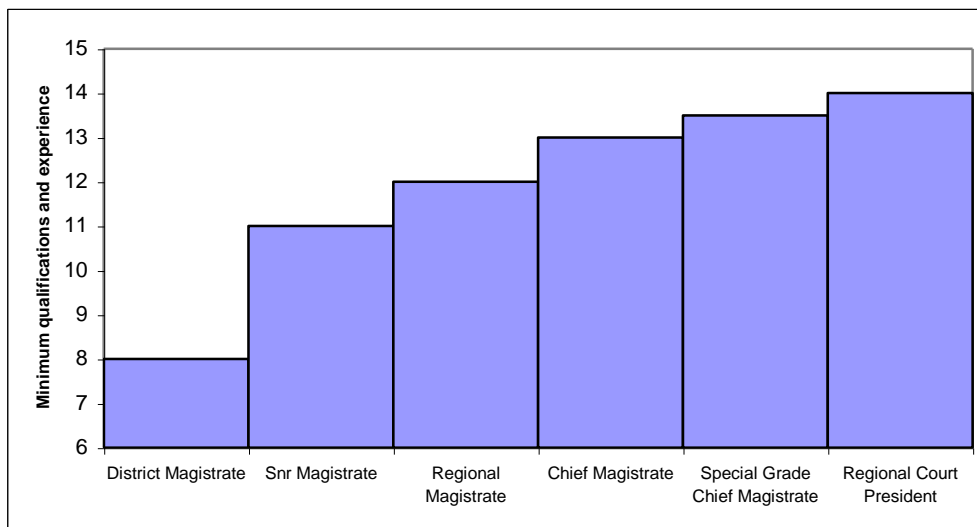
Magistrates

290. The minimum requirement to be appointed as a Magistrate in the District Court is a 3-year legal degree and 5 years relevant experience. It is

important to note that a District Magistrate role is not an entry-level role, as significant prior legal experience is required to be competent in such position. The career path of a Magistrate is based on the complexity of the role, and therefore on the knowledge and experience required to perform the role competently.

291. Based on the jurisdiction of the Courts, the magisterial career path starts in the District Court as a Magistrate, and ends in either the District or Regional Court as Special Grade Chief Magistrate (in District Court) or Regional Court President. This does not exclude a Magistrate from being appointed as a Judge in the High Court or moving into the private sector. This career progression is illustrated in **Figure 22** below.

Figure 22: Magisterial career path



(Deloitte & Touche; 2006)

JOB GRADING

292. A grading structure has been developed for all judicial office bearers, which reflects the institutional relatedness amongst different positions in the judiciary. There is overwhelming and compelling support both locally and

internationally for the notion of maintaining completely separate grading, benchmarking and remunerative structures for office bearers in the Judiciary from those in political institutions (Executive and Legislature). The methodology applied in this regard has already been explained above.

293. The proposed grading table in respect of all judicial office bearer positions is attached as **Annexure I**. The grading structure is characterised by both grades and pay levels to distinguish between positions on the basis of their relative worth.

294. The grading results for public office bearer positions in the Judiciary are depicted in **Table 33** below.

Table 33: Grading Results for Judiciary

Grade	Pay level	Position
JA	1	Chief Justice
JB	1	Deputy Chief Justice President: Supreme Court of Appeal
JC	1	Deputy President: Supreme Court of Appeal
	2	Judge of the Constitutional Court Judge of the Supreme Court of Appeal
	3	Judge President of the High Court Judge President of the Labour Court
	4	Deputy Judge President of the High Court Deputy Judge President of the Labour Court
	5	Judge of the High Court Judge of the Labour Court
JD	1	Special Grade Chief Magistrate Regional Court President
JE	1	President of a Divorce Court Regional Magistrate Chief Magistrate
	2	Presiding Officer of a Divorce Court
JF	1	Senior Magistrate
JG	1	Magistrate

295. The grading results formed the basis for determining the market comparison and internal relativity of salaries for these positions.

BENCHMARKING

296. It was already stated above that the Commission applied a hybrid benchmarking model that contained elements of both the Graded Benchmarking Methodology (benchmarking positions on a job grade basis) and the Graded Pay Relativity Methodology (determining positional ratios to an anchor position). The Commission's hybrid model involves benchmarking anchor positions at the top levels of public office bearer positions in each of the institutions against comparatives in private, public and international sectors. In addition, the Commission considered statutory and other directives relating to remuneration links and benchmarking. After establishing appropriate benchmarks for the anchor positions, the Commission determined appropriate ratios at which different public office bearer positions were to be placed within a hierarchical structure in each of the institutions.
297. In order to conduct a comprehensive and credible benchmarking exercise, the Commission considered comparators in the private sector, senior public service, senior executives in State Owned Entities and institutions supporting constitutional democracy, and similar international positions and practices.
298. The Commission considers the position of the Chief Justice to be the most appropriate remuneration top level anchor position for public office bearer positions in the Judiciary. In order to find an optimal benchmark for the position of the Chief Justice, the Commission considered the following:
- Section 7(2)(b) of the Public Audit Act, 2004 (Act No. 25 of 2004) directs that the salary, allowances and other benefits of a person appointed as Auditor-General must be substantially the same as those of the top echelon of the judiciary.
 - Private sector remuneration at a similar Peromnes grade. In this regard the Commission was advised by its expert consultants that remuneration levels

for private legal practitioners and for a Size E private sector company would be most appropriate.

- Current policy directives state that the salary of the National Director of Public Prosecutions should not be at a level lower than that of a High Court Judge, and could be applied as a benchmarking input.
- Remuneration of self-employed private legal practitioners are considered to be meaningful benchmarks.
- Benchmarking practices in countries with similar constitutional and governmental systems as South Africa show that the remuneration of the Head of State/Head of Government is at a similar or lower level as that of its Chief Justice, and that judicial office bearers are generally remunerated at higher levels than political office bearers. This practice is defended on the basis of the highly skilled nature of the duties of judicial office bearers, the academic and experiential requirements for appointment, and the maintenance of judicial independence as a cornerstone of democracy. The Commission found these arguments overwhelmingly convincing.

299. Although it is not advisable nor desirable to establish a formal link between the remuneration of the President, as Head of the National Executive, and the Chief Justice, as Head of the Judicial Authority, the private sector and international sector data, as well as the Commission's grading results indicate that these two positions should be benchmarked at the same or similar level.

300. Having thus established appropriate benchmarks for the anchor position of the Chief Justice, ratios to the anchor position were determined for the remaining positions in the Judiciary, after taking into consideration:

- The extent of job evaluation and grading differences;
- Location on or close to the public office bearer pay line developed by the Commission's consultants;
- Consistency in the rates of spread between top and bottom remuneration levels in institutions; and

- Creating room for aspiration and career progression within an institution.

301. **Table 34** below reflects the ratios at which the Commission proposes the location of public office bearer positions in the Judiciary to be.

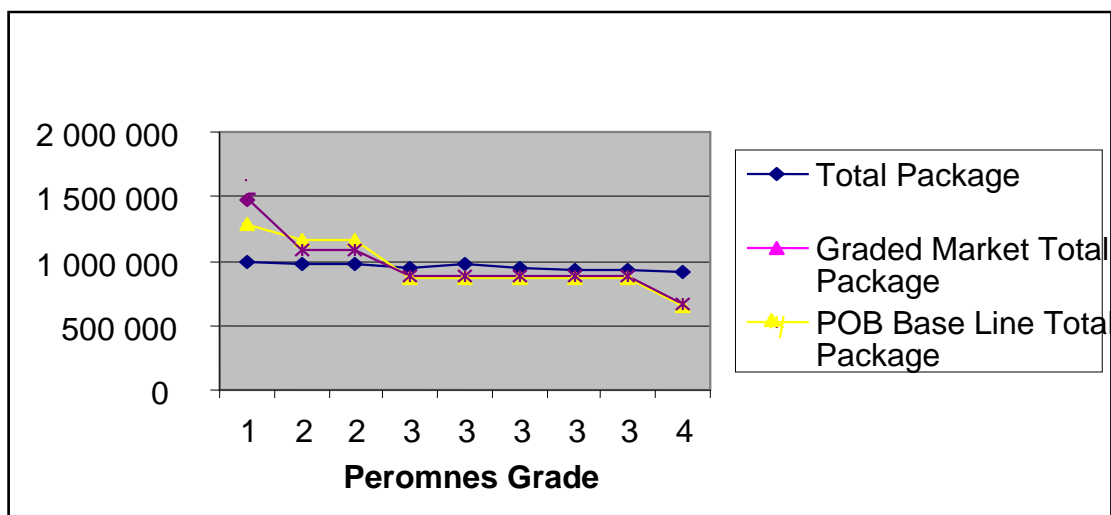
Table 34: Remuneration ratios in relation to institutional anchor

Grade	Pay level	Position	Ratio to anchor
JA	1	Chief Justice	Anchor
JB	1	Deputy Chief Justice President: Supreme Court of Appeal	JA1 – 10%
JC	1	Deputy President: Supreme Court of Appeal	JA1 – 15%
	2	Judge of the Constitutional Court Judge of the Supreme Court of Appeal	JA1 – 20%
	3	Judge President of the High Court Judge President of the Labour Court	JA1 – 25%
	4	Deputy Judge President of the High Court Deputy Judge President of the Labour Court	JA1 – 30%
	5	Judge of the High Court Judge of the Labour Court	JA1 – 35%
JD	1	Special Grade Chief Magistrate Regional Court President	JA1 – 55%
JE	1	President of a Divorce Court Regional Magistrate Chief Magistrate	JA1 – 60%
	2	Presiding Officer of a Divorce Court	JA1 – 63%
JF	1	Senior Magistrate	JA1 – 67%
JG	1	Magistrate	JA1 – 70%

302. It is important to note that if the salaries of judicial office bearers are to be equated to those in the Executive or Legislatures, it may negatively impact on judicial independence, or at least on perceived judicial independence. To enhance public confidence in the independence of the judiciary it is necessary to remove any perception of politicisation from the establishment of judicial compensation.

303. **Figures 23 and 24** below show the comparison of current judicial total remuneration packages with that of the comparable market. There is a clear lag in the upper levels of judicial remuneration compared to the market, which undoubtedly has a negative impact on any successful recruitment and retention objectives in the judiciary. It must also be explained that the market data used for comparison is based on Peromnes grading and relates to national remuneration pay levels in the private sector. The Commission requested the General Council of the Bar, Statistics SA and the South African Revenue Services to furnish remuneration levels or trends of advocates, and in particular senior counsel, but has not been furnished with details relating to such salary levels or trends. The Commission has however been advised that the average monthly income of senior counsel varies between R100 000 and R300 000.²² It is a widely recognised fact that the net earnings of senior counsel practising at the bar are many times a judge’s total remuneration. It follows that senior counsel and other senior legal practitioners, from where future judges are recruited, and not the national private sector trends, are the ideal comparator group.

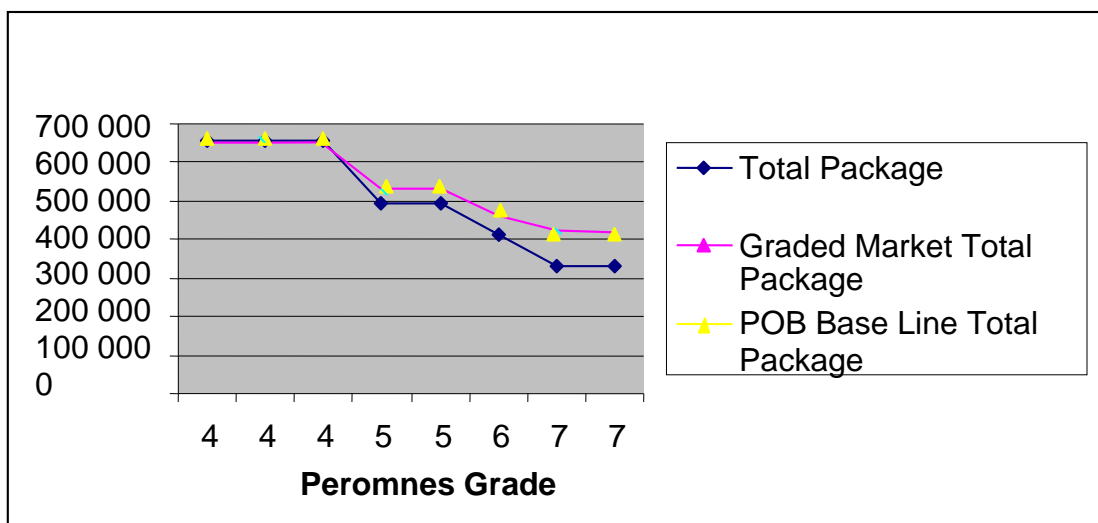
Figure 23: Judiciary Total Remuneration comparison to Market



(Deloitte & Touche; 2006)

²² This information was furnished by the Secretary of Advocates for Transformation KZN.

Figure 24: Magistracy Total Remuneration comparison to Market



(Deloitte & Touche; 2006)

304. Remuneration linked to role complexity and attraction and retention strategies may attract premiums. This is more acutely so where the source pool for these positions is located in private practice, and where there is a general scarcity in the market of available talent. Most of the potential candidates for recruitment to judicial positions are either Senior Advocates or senior legal practitioners who are high earners already.
305. Magistrates have been remunerated in terms of the same salary, allowances and benefits structure as public servants until 2003, when they were included under the definition of “office bearers”. Despite their addition to the fold of public office bearers, their remuneration packages are however still composed similarly to those of ordinary public servants.
306. The remuneration of the judicial office bearers needs to reflect an internal equity that is clearly defined, and fairly represents the judicial processes from the Constitutional Court to the District Magistrates Courts. On this basis, there needs to be a consistent philosophy and application of remuneration practice within the Judiciary.

307. Magistrates have historically been regarded as separate from Judges. This means the Judiciary is not seen as one integrated authority. Much discussion has been held in the past over linking the salaries of Magistrates to those of Judges in the High Court. No link has been implemented thus far. A uniform remuneration structure including benefits and conditions of service should be developed and implemented for the entire Judiciary. Pay lines therefore are to be developed based on the anchoring of the remuneration of the Chief Justice with a sliding scale moving down the judicial hierarchy through to the District Magistrates. This appears to be the most logical approach if the Judiciary is to be viewed as inclusive of the Magistrates.

PAY LEVELS

308. Having completed the required job evaluations, established horizontally and vertically integrated grading structures, and having determined optimal benchmarks for public office bearer remuneration, the next step in the Commission's review process is to recommend actual pay levels for each public office bearer position.

309. The current total remuneration of public office bearer positions in the Judiciary is set out in **Table 35** and **Figure 25** below, and those in the magistracy in **Table 36** and **Figure 26** below.

Table 35: Current Total Remuneration of Judges

Office	Total remuneration
Chief Justice	1 092 363
Deputy Chief Justice / President SCA	1 078 404
Deputy President SCA	1 065 351
Judge: Constitutional Court / Judge: SCA	1 026 565
JP: High Court / JP: Labour Court	1 021 902
Deputy JP: High Court / Deputy JP: Labour Court	1 009 710
Judge: High Court / Judge: Labour Court	1 004 082

Figure 25: Current Total Remuneration of Judges

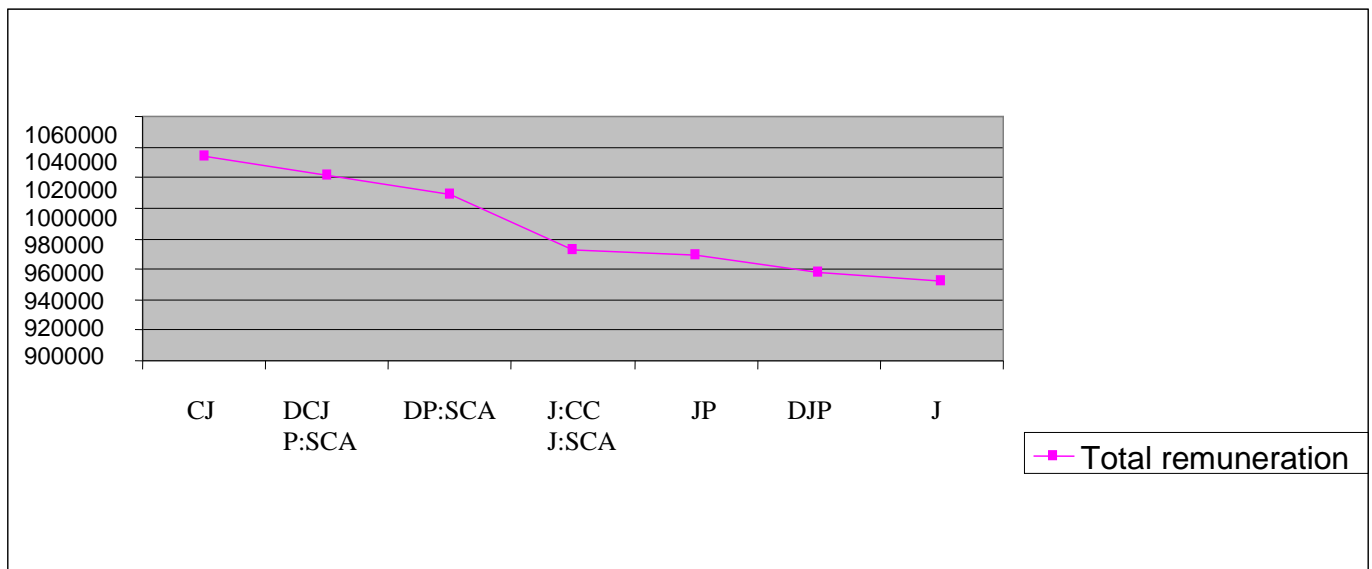
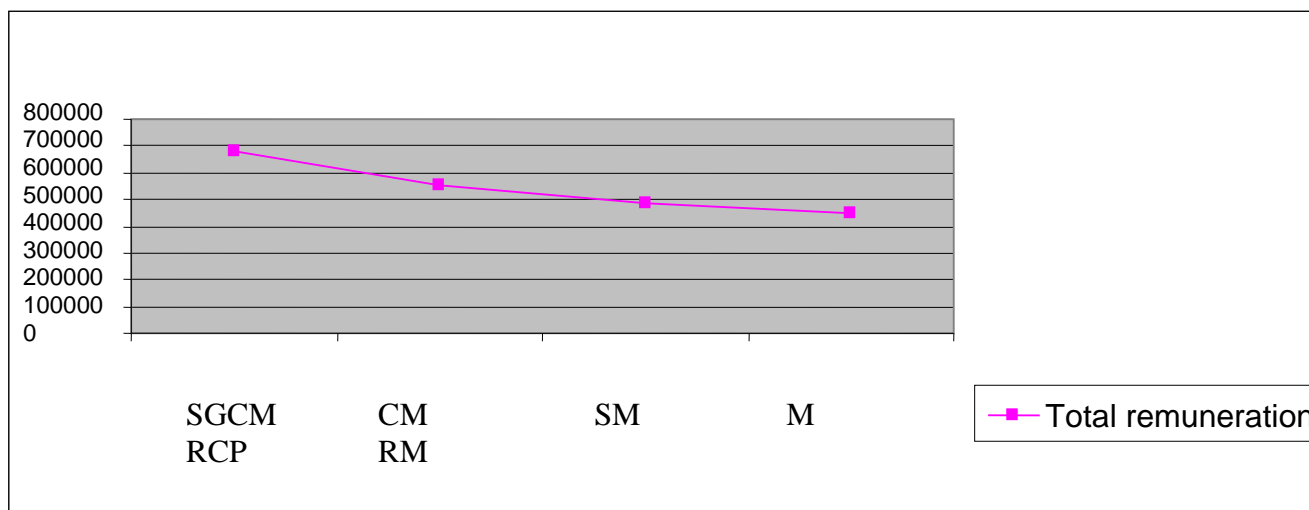


Table 36: Current Total Remuneration of Magistrates

Office	Total remuneration
Special Grade Chief Magistrate / Regional Court President	680 779
Chief Magistrate / Regional Magistrate	554 391
Senior Magistrate	489 114
Magistrate	446 535

Figure 26: Current Total Remuneration of magistrates



310. In particular the Commission has found that:

- Remuneration levels of judicial office bearers have consistently been dropping in real terms over the years when compared to public office bearers and senior public servants, and more specifically Directors General;
- Judicial remuneration practice has not kept pace with the changing judicial environment and requirements of the judiciary;
- The ability to attract and retain candidates who will uphold, protect and develop the judicial processes in keeping with constitutional and legal practice is compromised with current remuneration practices. There is a concern that the judiciary is unable to attract younger professionals who are able to earn significantly higher levels of remuneration in the private sector;
- Current judicial remuneration is not benchmarked correctly. Statutory directives relating to the benchmarking of the salary of the Chief Justice against that of the Auditor General has not been adhered to;
- A historic undertaking to ensure that judges' salaries would be increased in proportion to the CPIX rate, to ensure that effective purchasing power would be maintained at the level of judges' salaries in 1989, has not been honoured;

- Based on the available grading and market data per grade, it appears as the majority of Magistrates at lower levels are being fairly paid relative to the National Market, but that the gap between the remuneration of the lowest level judge and the highest level magistrate is too wide; and
- The level of compression between the remuneration of a Judge of the high Court and the Chief Justice is unduly small, and not in relation to job evaluation indicators, or international best practice.

311. The Commission considered the levels of remuneration of public prosecutors and other legal practitioners in the public service, and the possible comparison thereof to the remuneration of Magistrates, based on historical remuneration practices. The Commission however considers it inappropriate to deviate from its principled and scientifically formulated remuneration recommendations in respect of Magistrates, as a result of inappropriate comparisons of the two sets of remuneration packages and levels. In particular, the Commission considered the remuneration levels of prosecutors as indicated in **Table 37** below.

Table 37: Prosecutors’ remuneration levels

Post	Level	Remuneration
Prosecutor	C3	84 180 – 107 271
Prosecutor	C4	110 805 – 146 769
Prosecutor	C5	151 173 – 187 140
Prosecutor	D1	196 503 – 232 467
Prosecutor	D2	328 554 – 372 915
Senior Prosecutor	D3	404 691 – 449 055
Chief Prosecutor	/	584 331 – 633 567
Deputy Director of Public Prosecutions	/	584 331 – 633 567
Director of Public Prosecutions	/	787 260
Deputy National Director of Public Prosecutions	/	836 463
National Director of Public Prosecutions	/	984 072

312. The remuneration package of the Auditor General has recently been set by the President, after having considered recommendations in this regard by Parliament, at a total package value of R1 708 600 per annum. The

parliamentary recommendations were based on a similar job evaluation process applied by the Commission in this review project. Peromnes was also used as a basis for the Parliamentary job evaluation methodology, which enabled the Commission to make a very clear and defensible comparison between the levels of the positions of Chief Justice and Auditor General. The Commission has formed a strong view that equal remuneration levels for the Chief Justice, Auditor General, Deputy President, Speaker of the National Assembly and Chairperson of the National Council of Provinces, would support and develop constitutional democracy optimally in South Africa as far as the impact of remuneration levels thereon is concerned. The determination of the anchor position in the judiciary at an amount of R1 708 600 per annum would not only, for the first time, remunerate judicial office bearers at an appropriate level (based on the required qualifications, experience and characteristics), but would also serve to attract and retain the desired candidates to these positions, which has been a critically problematic area for the judiciary.

313. It is both necessary and useful to include as part of the judicial compensation a significant pension annuity benefit, which has substantial value if compared to that of private practitioners. Although judicial salaries cannot be at the high levels as those of the private legal practitioners, attractive pension benefits could serve as a valuable attraction and retention tool. Current retirement benefits for judges are appropriate, and necessary to attract the best candidates to the bench. An actuarial calculation of the annual value of this benefit is exceedingly complex, and depends on a number of assumptions relating to, amongst others, the period for which the benefit is to be paid, the interest rate, the life expectancy of the judge, etc. The Commission intends to conduct further research in respect of the appropriateness of this benefit in due course, but has in the meantime, and for the purpose of this report, calculated the annual value of this benefit as indicated in Annexure H. In order to make this calculation, the Commission had to assume a contribution period of fifteen years, a return rate of 6.5% per annum, and an average benefit

period of ten years after discharge. The payment of retirement benefits to Constitutional Court judges and judges is regulated in terms of sections 5 and 6 of the Judges Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001). In terms of these sections a Constitutional Court judge or judge who is discharged from active service in terms of section 3 of the same Act, shall be paid:

- A salary in accordance with the formula: $[(\text{annual salary of the highest office held by such Constitutional Court judge or judge in a permanent capacity during the period of his or her active service}) \div 15] \times [\text{period in years of active service of such Constitutional Court judge or judge}]$; and
- A gratuity in accordance with the formula: $[\text{annual salary of the Constitutional Court judge or judge at the time of his or her discharge from service}] \times 2 \times [(\text{period of years of active service, up to a maximum of 20 years}) \div 15]$.

314. For the purpose of determining appropriate levels of remuneration for Judges, the Commission used the Deloitte Top Executive Vehicle Tables to value the annual benefit for the type of vehicle allocated to Judges at R211 848. In calculating this value, the following assumptions were made:

- Depreciation was calculated over a period of 48 months (4 years).
- An average use of 30 000km per year was assumed.
- A residual amount of R386 214 has been used (60% of the smoothed value of the vehicle).
- Interest rate of 14%.
- Calculation includes license and registration, insurance costs and monthly instalments.

315. The calculation methodology of the benefit is similar to the practice in respect of private and public sector company cars. The Commission found that this scheme falls short of similar schemes in the private sector.

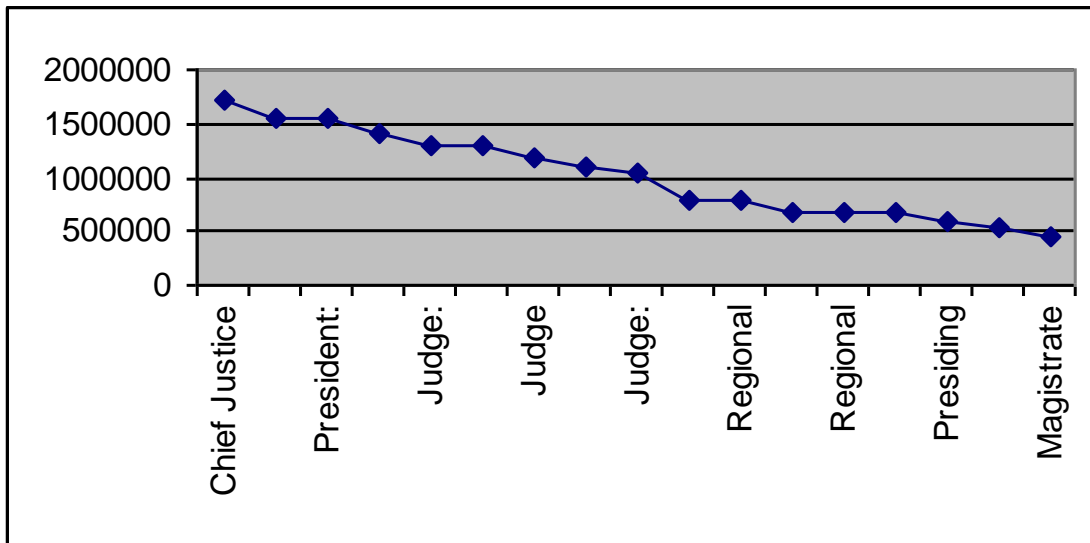
316. The Commission has developed recommended remuneration levels, ratios, and a pay curve for public office bearer positions in the Judiciary, as depicted in **Table 38** and **Figure 27** below.

Table 38: Recommended Remuneration Table for the Judiciary

GRADE	PAY LEVEL	POSITION	CURRENT PACKAGE	PROPOSED PACKAGE	DIFFERENCE	% CHANGE	NO. OF POSTS	TOTAL COST	EXPL	
JA	1	Chief Justice	1 034 302	1 708 600	674 298	65.19	1	674 298	Anchor (A)	
JB	1	Deputy Chief Justice	1 021 322	1 537 700	516 378	50.56	1	516 378	A - 10%	
		President: SCA	1 021 322	1 537 700	516 378	50.56	1	516 378		
JC	1	Deputy President: SCA	1 009 184	1 452 300	443 116	43.91	1	443 116	A - 15%	
	2	Judge: Constitutional Court	973 118	1 366 900	393 782	40.47	9	3 544 038	A – 20%	
		Judge: SCA	973 118	1 366 900	393 782	40.47	19	7 481 858		
	3	Judge President: High/Labour Court	968 782	1 281 500	312 718	32.28	9	2 814 462	A – 25%	
	4	Deputy Judge President: High/Labour Court	957 445	1 196 000	238 555	24.92	9	2 146 995	A – 30%	
	5	Judge: High/Labour Court	952 211	1 110 600	158 389	16.63	131	20 748 959	A - 35%	
JD	1	Special Grade Chief Magistrate	680 779	786 900	88 121	12.94	1	88 121	A - 55%	
		Regional Court President	680 779	786 900	88 121	12.94	10	881 210		
JE	1	President: Divorce Court	554 391	683 400	129 009	23.27	3	387 027	A - 60%	
		Regional Magistrate	554 391	683 400	129 009	23.27	318	41 024 862		
		Chief Magistrate	554 391	683 400	129 009	23.27	26	3354 234		
	2	Presiding Officer: Divorce Court	554 391	632 200	77 809	14.04	5	389 045	A – 63%	
JF	1	Senior Magistrate	489 114	563 800	74 686	15.27	160	11 949 760	A – 67%	
JG	1	Magistrate	446 535	512 600	66 065	14.80	1 388	91 698 220	A - 70%	
		TOTAL COST IMPLICATION							188 658 961	

*** The value of current total remuneration packages have been calculated as set out in Annexure H, and include basic salary, motor vehicle allowance, medical aid, pension, housing allowance, 13th cheque, and cellular phone allowance.

Figure 27: Recommended Remuneration Curve for the Judiciary



317. It is critical to note that the amounts reflected above represent the total remuneration which is recommended for payment to public office bearers, which includes salaries, all allowances and all benefits.

318. In one of the key chapters of the report the Commission set out the results and recommendations of the review. It records that it has completed comprehensive research to enable it to make recommendations, as is statutorily required, to the President and to Parliament, for the implementation of an integrated, fair and transparent total remuneration structure for all public office bearers in South Africa, as defined in relevant legislation. The process entailed completing job profiles, grading and benchmarking of all public office bearer positions, and making recommendations on appropriate levels of remuneration. The report contains the recommendations in this regard, which could be summarized as follows.

- The grading and remuneration tables for the different public office bearer groups should not be integrated into a single table which allows for vertical and horizontal comparison across the different groups, but should rather be differentiated in terms of each unique characteristics of each of the following institutions:
 - National Executive and Deputy Ministers;
 - National Parliament;
 - Provincial Executives and Legislatures;
 - Local Government;
 - Traditional Leadership structures; and
 - Judiciary (including the Magistracy).
- Grading and benchmarking of all public office bearer positions should be done both scientifically and artistically on the basis of the job profiles of each position, contained in Annexure D hereto.
- All public office bearer positions in the different institutions should be graded and remunerated as indicated in **Tables 39 to 44** below.
- Public office bearers should be remunerated in terms of a total remuneration structure, in which the total remuneration received by such office bearer is:

- Transparent and comprehensive;
- Distinguished from the tools of trade that may be required for the office bearer to perform his or her duties effectively and efficiently;
- Flexible to the extent that the office bearer could structure the remuneration package according to individual needs; and
- Fair and equitable in view of the specific requirements of the position.
- The structuring of the recommended total remuneration packages should include the following elements:
 - Basic salary component (60% of total package);
 - An amount of R60 000,00, as the amount to which section 8(1)(d) of the income Tax Act, 1962, applies;
 - Pension benefit; and
 - Flexible portion.
- The rules relating to the structuring of total remuneration packages should be similar to those in respect of senior management positions in the public service.
- The translation from the current public office bearer remuneration system to a system characterized by total remuneration packages should be with effect from 01 April 2007.
- The Commission should complete a similar review of the allowances, benefits and tools of trade that may be necessary for public office bearers in the different institutions to be able to perform their duties effectively and efficiently. The review will include pension benefits and institutionally unique allowances due to public office bearers, which are currently perceived to be inadequate and inequitable.

Table 39: Recommended grading and remuneration table for National Executive and Deputy Ministers

GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION
EA	1	President	1 898 400
EB	1	Deputy President	1 708 600
EC	1	Minister	1 452 300
ED	1	Deputy Minister	1 196 000

Table 40: Recommended grading and remuneration table for National Parliament

GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION
PA	1	Speaker: NA	1 708 600
		Chairperson: NCOP	1 708 600
PB	1	Deputy Speaker: NA	1 196 000
		Deputy Chairperson: NCOP	1 196 000
	2	House Chairperson	1 110 600
PC	1	Chief Whip: Majority Party	939 700
		Chief Whip: NCOP	939 700
		Parliamentary Counsel: President	939 700
		Parliamentary Counsel: Deputy President	939 700
		Leader of Opposition	939 700
	2	Chairperson of a Committee	854 300
PD	1	Deputy Chief Whip: Majority Party	768 900
		Chief Whip: Largest Minority Party	768 900
		Leader of a Minority Party	768 900
	2	Whip	713 500
PE	1	Member: NA	643 800
		Permanent Delegate: NCOP	643 800

Table 41: Recommended grading and remuneration table for Provincial Executives and Legislatures

GRADE	PAY LEVEL	POSITION	UPPER LIMIT OF TOTAL REMUNERATION	
LA	1	Premier	1 366 900	
LB	1	MEC	1 196 000	
		Speaker	1 196 000	
LC	1	Deputy Speaker	939 700	
		2	Chairperson of Committees	768 900
			Chief Whip: Majority Party	768 900
		Leader of Opposition	768 900	
	3	Deputy Chairperson of Committees	723 400	
		Chairperson of a Committee	723 400	
Deputy Chief Whip: Majority Party		723 400		
	Chief Whip: Largest Minority Party	723 400		
	Leader of a Minority Party	723 400		
LD	1	Parliamentary Counsel to a King	643 800	
		Whip	643 800	
	2	MPL	623 100	

Table 42: Recommended grading and remuneration table for Local Government

GRADE	PAY LEVEL	POSITION	UPPER LIMIT OF TOTAL REMUNERATION
MA	1	Executive Mayor	756 900
		Mayor	756 900
MB	1	Deputy Executive Mayor	613 500
		Speaker / Chairperson	613 500
		Deputy Mayor	613 500
MC	2	MEC	577 700
		MMC	577 700
		Chairperson of a sub-council	577 700
		Whip	577 700
MD	1	Municipal Councilor	290 900

Table 43: Recommended grading and remuneration table for Traditional Leadership structures

GRADE	PAY LEVEL	FULL TIME POSITIONS	TOTAL REMUNERATION
TA	1	King	590 400
TB	1	Chairperson: NHTL	501 800
	2	Full time Chairperson: PHTL	413 300
	3	Deputy Chairperson: NHTL	383 800
	4	Full time Deputy Chairperson: PHTL	354 200
TC	1	Full time Member: NHTL	206 600
	2	Full time Member: PHTL	177 100
TD	1	Senior Traditional Leader	129 900
	2	Headman	0
GRADE	PAY LEVEL	PART TIME POSITIONS *	SITTING ALLOWANCE
/	/	Part time Member: NHTL	R744 per day
/	/	Part time Chairperson: PHTL	R885 per day
/	/	Part time Deputy Chairperson: PHTL	R796 per day
/	/	Part time Member: PHTL	R617 per day

* In addition to sitting allowances, part time members are entitled to their salaries as Traditional Leaders, as well as subsistence costs (reasonable and actual expenses) and transport costs (Department of Transport tariffs for the use of privately owned vehicles), for their attendance of official meetings, seminars, workshops and conferences of the respective Houses.

Table 44: Recommended grading and remuneration table for the Judiciary

GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION
JA	1	Chief Justice	1 708 600
JB	1	Deputy Chief Justice	1 537 700
		President: SCA	1 537 700
JC	1	Deputy President: SCA	1 452 300
	2	Judge: Constitutional Court	1 366 900
		Judge: SCA	1 366 900
	3	Judge President: High/Labour Court	1 281 500
	4	Deputy Judge President: High/Labour Court	1 196 000
	5	Judge: High/Labour Court	1 110 600
JD	1	Special Grade Chief Magistrate	768 900
		Regional Court President	768 900
JE	1	President: Divorce Court	683 400
		Regional Magistrate	683 400
		Chief Magistrate	683 400
	2	Presiding Officer: Divorce Court	632 200
JF	1	Senior Magistrate	563 800
JG	1	Magistrate	512 600

319. It is important to draw a clear distinction between remuneration and tools of trade. Definitions of these concepts appear above. The Commission has found that there are significant differences in the approaches adopted by different institutions with regard to the allocation of tools of trade to office bearers in those respective institutions. A full review per institution is necessary, and a similar review process as the one in the report herein would be both appropriate and necessary. It is important to note that the Commission is statutorily mandated, by virtue of section 8(4)(c) of the Independent Commission for the Remuneration of Public Office Bearers Act, 1997, to make recommendations in respect of the resources necessary to enable an office bearer to perform his or her functions effectively (“tools of trade”).
320. **Annexure K** sets out a very broad summary of the known resources allocated to office bearers in the different institutions. The detail thereof have not to date been consolidated in a single, accessible and comprehensive document.
321. The Commission is aware of the fact that there is currently widespread unease with regard to the unclear distinction between remuneration and tools of trade, the confusion in respect of what tools of trade are available to different office bearers, and whether the current tools of trade are appropriate or not. It is interesting to note that both the Commission and its consultants were brought under the clear impression, after consultations with representatives from certain public office bearer groups, that incumbents were more agitated by the fact that they were required to sponsor their tools of trade from their own salaries, than by the levels of their salaries. It was even suggested to the Commission that “the harder one works, the poorer he or she becomes”. One relevant example relates to the confusion regarding the taxable nature of the use of travel vouchers by family members of Members of Parliament. It can be argued that the

vouchers for use by the spouse or companion, dependents, parent or parent-in-law of a Member is in fact a benefit and should be treated as part of the remuneration package. It can further be argued that members need to be able to motivate the use of each voucher as an official expense. Where it cannot be motivated as an official expense, it should be treated as a benefit and part of the taxable remuneration of the Member. This issue needs to be properly researched and clarified.

322. The Commission therefore intends to institute a comprehensive review of the resources referred to in the said section 8(4)(c) during 2007, and will make full recommendations in such regard after completion thereof. The aim of such a review would be to formalise a transparent record of the total remuneration (salaries, benefits and allowances) as well as the institutionally relevant tools of trade required by each public office bearer position to enable the incumbent to perform his or her duties efficiently and effectively.

TOTAL REMUNERATION SYSTEM AND IMPLEMENTATION

323. Successful implementation of a total remuneration structure for all public office bearers will depend on thorough job analysis, consistent job evaluation and job grading, appropriate benchmarking, and a total structure based on equity and fair remuneration. It would further be necessary to define remuneration packages in terms of a set of core components and flexible portions for each package, while at the same time addressing the many differences in existing benefit arrangements amongst different public office bearer groups.
324. The challenges that need to be addressed in the implementation stage of a total package remuneration system are as follows:
- Careful change management of a new remuneration dispensation, including consultation and communication with incumbents, conceptualisation of various key terminologies, payroll system changes, and administrative structures to deal with actual financial transactions.
 - Appropriate budgeting and transition costing.
325. A three-phase implementation process is recommended:
- Determination of actual financial cost to translate existing remuneration to a total package structure.
 - Communication of the implementation process and package structuring options to all current public office bearers and other relevant stakeholders.
 - Administration and systems changes.

Determination of actual financial cost to translate existing remuneration to a total package structure

326. This is the most critical part of the implementation process. The present benefit structure should be analysed and the total cost of the transition to total package is quantified. At this point, the decision-makers responsible for remuneration of Public Office Bearers will decide whether or not to proceed with the full implementation. Much of the necessary work required for implementation was carried out during this review phase and included:

- Drafting of role profiles for every position of public office bearer within each institution.
- Deciding on and developing applicable job evaluation system for each institution.
- Grading of each of the public office bearer positions.
- Development of pay scales for each institution.
- An analysis of the current benefit structure and the valuation of current benefits to determine the present total package cost.
- A full costing of the transition to total package remuneration including equity implications.

327. Typically an investment is required to establish parity in the transition process. This transition does not happen within one financial year, and will be more acceptable to the budgetary process if implemented over a period of between three to five years. The Department of Public Service of South Africa (DPSA) has implemented a Total Inclusive Package for employees of the Senior Management Service at a cost of approximately 5% of the total remuneration. To summarise, this is the cost of 'buying yourself out of the cost' of the promise of a future subsidy. **Annexure J** hereto reflects the actual financial cost of translating the current remuneration system to a Total Remuneration structure.

Communication of the implementation process and package structuring options, to all current public office bearers and other relevant stakeholders

328. Once step 1 is finalised and the extent of the implementation process is understood, a full project timeline should be developed for the following:

- Finalisation of proposed remuneration structures by institutions.
- Amendment of policy documentation and remuneration rules by institution.
- Consultation with appropriate public office bearer representative groups, where necessary.
- Communication requirements, including:
 - Presentations to Public Office Bearers.
 - Booklets and documentation.
 - Communication Workshops.
 - One-on-one package counselling.
- Design and explanation of remuneration structuring tool.

Administration and systems changes

329. During this phase the project map would be implemented including the following deliverables:

- Payroll amendments to accommodate the new remuneration structure.
- Development of communication documentation and the running of presentations and information sessions to all Public Office Bearers.
- Possible linkage of total cost packages to existing administrative mechanisms such as Persal.

CONCLUSION

330. Due to the fact that this Commission and its predecessors in the past made its remuneration recommendations based on mainly historical remuneration practices and levels, it has become necessary to conduct a review of the remuneration structure, systems and levels pertaining to all public office bearers. No such review had been conducted thus far in South Africa. South Africa has had the benefit of ten years of experience under its current constitution, and an opportune moment existed to evaluate how remuneration practices in respect of public office bearers contributed to the advancement of constitutional democracy and good governance in South Africa.
331. This review also presented an opportunity to address the many inequities that exist in the current system of public office bearer remuneration, which resulted inter alia from the addition of different positions to the definition and fold of public office bearers at different times, and from different remuneration regimes. The review at the same time considered how public office bearer remuneration practices kept up with remuneration developments generally, and what measures were required to address instances where it did not.
332. It was necessary for the Commission to state its remuneration policy in clear terms, and to conceptualise the principles it considers to be of key importance in respect of public office bearer remuneration. Transparency, flexibility and fair remuneration were identified as the main objectives of the establishment of a remuneration regime for public office bearers.
333. The review established, for the first time, comprehensive job profiles for each public office bearer position, through a process of multi-faceted and scientific job evaluation. This served as a strong basis for job grading, benchmarking, and ultimately for the determination of fair and appropriate pay levels for each of those positions.

334. The significantly different allocations of tools of trade by different institutions, the widespread confusion with regard to the nature of such tools of trade, and the appropriateness of these allocations, necessitates a full review thereof by the Commission in the immediate future.

ANNEXURES

- A. Legislative framework
- B. Summary of submissions received
- C. List of resources considered
- D. Role profiles per institution
- E. Peromnes grading results
- F. Comparative grading tables
- G. Current remuneration tables
- H. Current total remuneration packages
- I. Recommended remuneration tables
- J. Estimated cost of translation of current remuneration system to Total Remuneration
- K. Summary of Tools of Trade per institution
- L. Parliamentary submission on international comparative study