

# Promotion review in the Parliamentary Service

This document provides advice on the following topics:

- general information about promotion review
- how to apply for review
- providing a statement to a Promotion Review Committee
- the promotion review process and frequently asked questions.

## 1 General information about promotion review

### The Parliamentary Service Merit Protection Commissioner

The Australian Public Service Merit Protection Commissioner also holds the office of Parliamentary Service Merit Protection Commissioner (Merit Protection Commissioner). Parliamentary Service promotion reviews are handled by staff of the Australian Public Service Commission working for the Parliamentary Service Merit Protection Commissioner.

Further information about promotion review can be found in clauses 77 to 93 of *Parliamentary Service Determination 2013* (the Determination). A copy of the Determination is at <http://www.comlaw.gov.au/Series/F2013L01201>.

### What is a promotion?

A promotion is the ongoing movement of a Parliamentary Service employee to a job at a higher classification level in the Parliamentary Service. The engagement of an Australian Public Service (APS) employee at a classification in the Parliamentary Service higher than the employee's APS classification is also treated in the same way as a promotion. Note: A reciprocal arrangement is in place in the APS where the engagement of a Parliamentary Service employee at a classification in the APS higher than the employee's PS classification is also treated as a promotion.

A move of a Parliamentary Service employee to a higher classification within a department's broadband is not a promotion.

### Publication of promotions

Promotion decisions are published in the Public Service *Gazette* (the *Gazette*) and can be found at <https://www.apsjobs.gov.au>. Promotions normally take effect four weeks after the promotion has been published in the *Gazette*, subject to any promotion reviews.

### Grounds for review

The only ground for a review of a promotion under the Act is merit (subsection 10A(2) of the *Parliamentary Service Act 1999* (the Act)). To be successful in an application for review, the review applicant needs to demonstrate stronger claims, in terms of skills and other work-related qualities, to

the particular job than the promotee. A review applicant who is only able to demonstrate equal claims to the job will not be successful in overturning the original promotion decision.

## **Promotion Review Committee**

Promotion reviews are conducted by an independent and impartial Promotion Review Committee (PRC) established by the Merit Protection Commissioner. The committee consists of three members:

- a convenor nominated by the Merit Protection Commissioner;
- a nominee from the relevant parliamentary department; and
- a third member nominated by the Merit Protection Commissioner.

The convenor will be an employee in the Office of the Merit Protection Commissioner with training in merit-based reviews. The third member will be a Parliamentary Service employee who has the skills and experience to undertake merit-based reviews.

The following mechanisms help ensure the independence of the PRC:

- each member is required to sign a declaration of impartiality;
- PRC members cannot be directed when carrying out their duties. This means that they need to form their own judgement about candidates;
- it is an offence for a person to obstruct a PRC in carrying out its function; and
- PRCs need to follow binding instructions which the Merit Protection Commissioner issues to guide PRCs.

## **Role of the Promotion Review Committee**

For each review application, the PRC is required to assess the relative merits of the review applicant and the promotee and to decide whether the original promotion decision should be upheld, or whether the review applicant should be promoted instead.

To be successful, a review applicant needs to demonstrate to the PRC a greater claim to be promoted to the job.

## **Who is entitled to seek review?**

### ***A. Active reviews***

If you have applied for a promotion to a Parliamentary Service job but have been unsuccessful, you may apply to have the decision reviewed by a PRC in the following circumstances:

- you are an ongoing Parliamentary Service employee who has applied for promotion to the job;

- you are an ongoing APS employee who has applied for engagement to the relevant employment and the engagement would be at a higher classification than your classification in the APS;
- the job is at the PS 2 to 6 or equivalent classifications; and
- the successful candidate is an ongoing employee of the Parliamentary Service who would be promoted to the job or is an ongoing APS employee who would be engaged at a classification higher than the employee's current classification.

Promotion decisions resulting from recommendations of Independent Selection Advisory Committees or from reviews conducted by PRCs are not reviewable.

Moves within departments' broadband are not promotions and are not reviewable.

### ***B. Review applications from promotees***

Some selection exercises fill multiple job vacancies and result in a number of promotions. Candidates whose promotions are published in the *Gazette* in these circumstances and who think that other candidates may seek reviews of their promotions are able to lodge applications for review. This involves lodging review applications against the promotions of other successful candidates published in the *Gazette* from the same selection exercise.

### **Parties to the review**

The parties to the review are the review applicants and the promotees nominated by the review applicants or by other promotees.

### **Notification of a review application**

Staff in the Office of the Merit Protection Commissioner will determine the validity of applications and advise the relevant parliamentary department and the parties to the review.

Information on departments whose promotions have attracted [review applications](#) is posted on the Merit Protection Commissioner's website on the day following the due date for applications. This usually occurs each Friday by 2:00pm Australian Eastern Standard Time (AEST).

## **2 How to apply for review**

You will need to provide the information required in the [online application form](#) available on the Merit Protection Commissioner's website. Applications for review must be received by 5:00pm, local time, on the 14th day after the date the promotion appeared in the *Gazette* (<https://www.apsjobs.gov.au><http://www.apsjobs.gov.au/>).

### ***Steps in the review process***

<b>Step</b>	<b>Action</b>
1.	<p>Check the <i>Gazette</i> (<a href="https://www.apsjobs.gov.au">https://www.apsjobs.gov.au</a>) after completion of the selection exercise for details of any promotions.</p> <p>Check the <i>Gazette</i> in which the promotion was published for the closing date for making review applications. It is usually 5:00pm local time of the 14th day following the publication of the promotion in the <i>Gazette</i>.</p> <p>You can ask the human resources or corporate services area in the relevant parliamentary department when the outcome of the selection exercise will be published in the <i>Gazette</i>.</p>
2.	<p>Complete the online promotion review <a href="#">application form</a>.</p>
3.	<p>Submit the form online. See the contact details at the end of this document.</p> <p>You must submit the application to the Review Team by the date and time specified in the <i>Gazette</i>. Applications for review of promotion decisions not lodged by the closing date and time will be considered to be out of time and will not be accepted.</p>
4.	<p>It is your responsibility to ensure that your application reaches the Office of the Merit Protection Commissioner by the closing date. The successful lodgement of your online application will generate an email receipt to your nominated email address.</p>
5.	<p>The Review Team will advise you about:</p> <ul style="list-style-type: none"><li>• whether it was lodged in time;</li><li>• whether your application is eligible; and</li><li>• next steps.</li></ul>

### **3 Providing a statement to a Promotion Review Committee**

You will be asked to provide a statement in support of your application.

Each other party to the review is also asked to provide a statement.

#### ***Purpose of the statement***

The statement is an important opportunity for you to demonstrate to the PRC your claims to the job on the basis of merit. Many promotion reviews are finalised without further contact with the parties so do not expect to the PRC to ask you to provide additional information. If it is important include it in your statement.

In deciding merit, the PRC will consider:

- your work related qualities<sup>1</sup>, relative to those of the other parties to the review
- how your work related qualities relate to the requirements of the job.

### ***How to present your claims***

It is your responsibility to bring to the PRC's attention, through your statement, any matter, which in your opinion, demonstrates your claim to promotion on the grounds of merit.

Comments about other parties to the review are not relevant to your claim to promotion on the grounds of your merit. **Please note** if you make comments in your statement about other parties to the review, you should ensure that your comments are:

- consistent with the PS Values, the PS Employment Principles and Code of Conduct—for example they are respectful, professional and non-discriminatory.

### ***Submitting your statement***

You will be asked to email your statement to [review@apsc.gov.au](mailto:review@apsc.gov.au) by the due date (see below).

Attach the following two documents to your email in 'PDF' format. These are:

- the personal details form (see below)
- your statement—do not forget to include your name and reference number in your statement. (The reference number is included at the top of the letter you received about the promotion review and it will also be included in the subject line of any email).

### ***Personal details form***

Once your review application is assessed as eligible you will be sent a personal details form. It seeks contact details and information about your ability to participate in the promotion review process—for example, any absences on leave or any issues which may affect your capacity to be contacted or to attend an interview.

### ***Disability***

If you have a disability or require special arrangements, please indicate this on your personal details form. The Review Team will contact you to discuss these arrangements.

### ***Due date for statements***

The due date will be specified in the letter or email that acknowledged your application for review, or advised you that your promotion has received a review application. The timeframe for providing statements is specified in the Determination. You will usually have between 10 to 14 calendar days to prepare and submit your statement from the time it is requested.

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<sup>1</sup> Work related qualities include: skills and abilities; qualifications, training and competencies; standard of work performance; capacity to produce outcomes by effective performance at the level required; relevant personal qualities, such as honesty and integrity; potential for further development; ability to contribute to team performance.

## **4 The review process and frequently asked questions**

### **How the promotion review is conducted**

The PRC is making a new decision. This means the PRC considers all information before it including the original agency selection documentation and the statements provided by parties. Your statement is an important piece of evidence because it has up-to-date information about you.

The PRC may consider that it has sufficient information from the department about the original decision and from the statements of the parties to the review to make a decision based on the written evidence before it.

PRCs are not required to give you a formal hearing, to enable you to present your claims in person. The PRCs may choose to interview some or all of the parties to test their claims for promotion. Interviews are conducted by phone. The PRC may request additional information from the parties, the department or other people such as referees.

The PRC may provide any comments you make about another party, to that party for comment, consistent with the requirement to afford procedural fairness. We reserve the right to redact information from statements that have privacy implications before that statement is made available to another party to the review.

### **What does the PRC assess?**

The PRC assesses the relative merit of the promotee and the review applicant. This assessment requires the PRC to decide which candidate is most suitable to perform the duties of the job successfully.

Review administration staff seek advice from the departmental delegate on what considerations (other than merit) were taken into account in original decision. This information is made available to the PRC)

The PRC can take into account other secondary considerations which the Committee considers are relevant. A relevant consideration might be a person's availability to take up the job or a record of misconduct. If there is such a consideration, the PRC will give an affected candidate the opportunity to comment before taking the consideration into account.

### **Do I need to provide referees?**

You may choose to provide referee reports with your statement to support your claims of greater merit. The PRC may wish to contact referees and will advise you if they wish to do so. In the event that a referee says anything adverse in relation to your claims to the position (e.g. that you do not have the relevant skills) you will be given the opportunity to comment on the referee's statement before the PRC makes its decision.

## Who will tell me the outcome of the review process?

As soon as the PRC has made its decision, the relevant parliamentary department nominee will advise you of the outcome. You will also receive written advice from the parliamentary department in which the job is located. PRCs are not required to give reasons for their decisions and you will **not** receive a written assessment from the PRC.

## Can I get feedback?

The parliamentary department nominee on the PRC is available to give oral feedback on the PRC's assessment of your claims. The PRC will decide on what feedback you are given; this will be only a summary of the deliberations of the PRC and may not cover all aspects considered in making a decision.

## The promotion review decision

The PRC makes an independent decision about who is to be promoted. Under law, parliamentary departments are bound to implement PRC decisions.

The PRC makes a new decision so **please note the PRC:**

- *cannot* change the original departmental decision that you are unsuitable or recommend to the agency that you be rated suitable or that you be placed on the order of merit
- does not consider whether the original departmental decision was 'right' or review how an departmental selection exercise was conducted.

## Further review

There is no further right of administrative review under the Act or the Determination.

To take the matter further, you would need to apply to a court for a judicial review, under the general law or the *Administrative Decisions (Judicial Review) Act 1977*. In such cases, it would be prudent to seek legal advice.

## Additional information

All information on the PRC process, is on the Merit Protection Commissioner's website at <http://meritprotectioncommission.gov.au/promotion-reviews/promotion-review-information>.