



MERIT PROTECTION COMMISSIONER

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PARLIAMENT HOUSE
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**Senate Legislation Committee Hearing 25 May 2004
Merit Protection Commissioner – Additional Material**

I appeared before the Committee in hearings on 25 May 2004. I attended the hearings with Mr Andrew Podger, the Public Service Commissioner, and staff of the Australian Public Service Commission.

In the course of responding to a question from Senator Forshaw relating to the number of “merit protection reviews overturned on review” (refer p F&PA 33) I referred to relevant data and noted that the information was drawn from memory. I indicated that I would provide additional detail and this now provided at Attachment 1.

The attachment provides summary information on the various categories of applications for review and the number dealt with during 2003-2004. Where figures are available in similar format the attachment also lists data for 2002-2003 for comparative purposes.

Yours sincerely

Jeff Lamond
Merit Protection Commissioner
8 July 2004

ATTACHMENT 1

Review of Action activity to end May 2004

Code of Conduct Reviews

COC – All 42 Cases Reviewed to end May 2004

| | Number | Percentage |
|-----------|--------|------------|
| Upheld | 18 | 43% |
| Varied | 17 | 40% |
| Set Aside | 7 | 17% |

COC Outcomes

| | 5.24(2)(a) & (b) | 5.24(2)(a) | 5.24(2)(b) | Total | Percentage |
|--------------------------------------|------------------|------------|------------|-------|------------|
| Number of cases | 28 | 6 | 8 | 42 | |
| Upheld | 11 | 3 | 4 | 18 | 43% |
| Varied/set aside Breach | 7 | 3 | 0 | 10 | 24% |
| Varied/set aside Sanction | 5 | 0 | 3 | 8 | 19% |
| Varied/set aside Breach and Sanction | 5 | 0 | 1 | 6 | 14% |

Note one 5.24(b) case set aside breach as well – pre-commencement misconduct ie conduct that occurred prior to the commencement of the *Public Service Act 1999* – the Agency was advised to reconsider the matter in accordance with the appropriate legislation and processes.

In 2002/03, 29 Code of Conduct cases were reviewed.

Of these

| | Number | Percentage |
|-----------|--------|------------|
| Upheld | 10 | 34.5% |
| Varied | 14 | 48.3% |
| Set Aside | 5 | 17.2% |

Other Reviews (except PRC)

Includes 5.24(3), 5.25(1), 5.29(1)(a), 5.29(1)(b), 7.2 reviews

95 Cases Reviewed to end May 2004

Response Requested for 24 cases (25%)

| Case outcome | Number | Percentage |
|--------------|--------|------------|
| Upheld | 83 | 87% |
| Varied | 9 | 9% |
| Set Aside | 3 | 3% |

For some cases responses have been requested even though the review generally upheld an agency decision or action.

Other Reviews in 2002-2003

54 "Other reviews" were completed in 2002-2003. Data on the number of cases where a response was requested is not readily available.

Promotion Reviews

Preliminary figures as at 30 June 2004 – note that these figures may not fully reflect all June activity.

For those applications that were reviewed by a PRC, 5.96% of promotions considered were overturned:

| Total Applicants | Active Applications | Protective Applications | Promotions Considered | Promotions Affirmed | Promotions Overturned |
|------------------|---------------------|-------------------------|-----------------------|---------------------|-----------------------|
| 442 | 172 | 270 | 403 | 379 | 24 |

2002/2003 – of 1071 promotions considered, 30 were overturned (2.8%)

2001/2002 – of 277 promotions considered, 15 were overturned (5.4%)