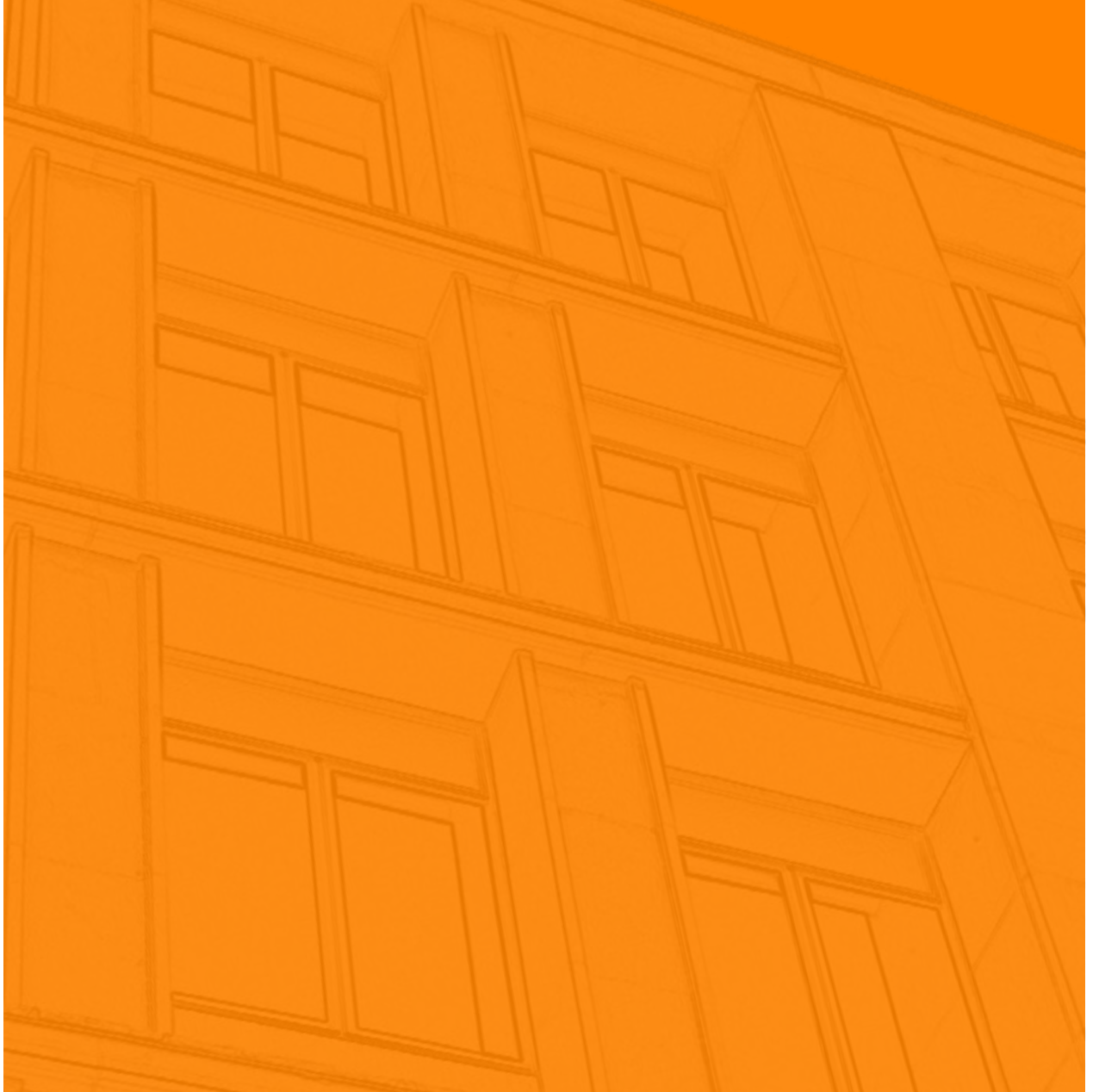




# PARLIAMENTARY SERVICE COMMISSIONER ANNUAL REPORT 2016–17



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This document must be attributed as the *Parliamentary Service Commissioner annual report 2016–17, incorporating the annual report of the Parliamentary Service Merit Protection Commissioner*.



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Parliamentary Service Commissioner

President  
Speaker

Letter of Transmittal

I have pleasure in presenting to you the Parliamentary Service Commissioner's annual report for the year ended 30 June 2017.

Section 42(1) of the *Parliamentary Service Act 1999* requires that, after the end of each financial year, the Commissioner must give a report to the Presiding Officers on the activities of the Commissioner during the year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Lloyd', with a long, thin diagonal line extending upwards and to the right from the top right of the signature.

The Hon John Lloyd PSM  
13 October 2017

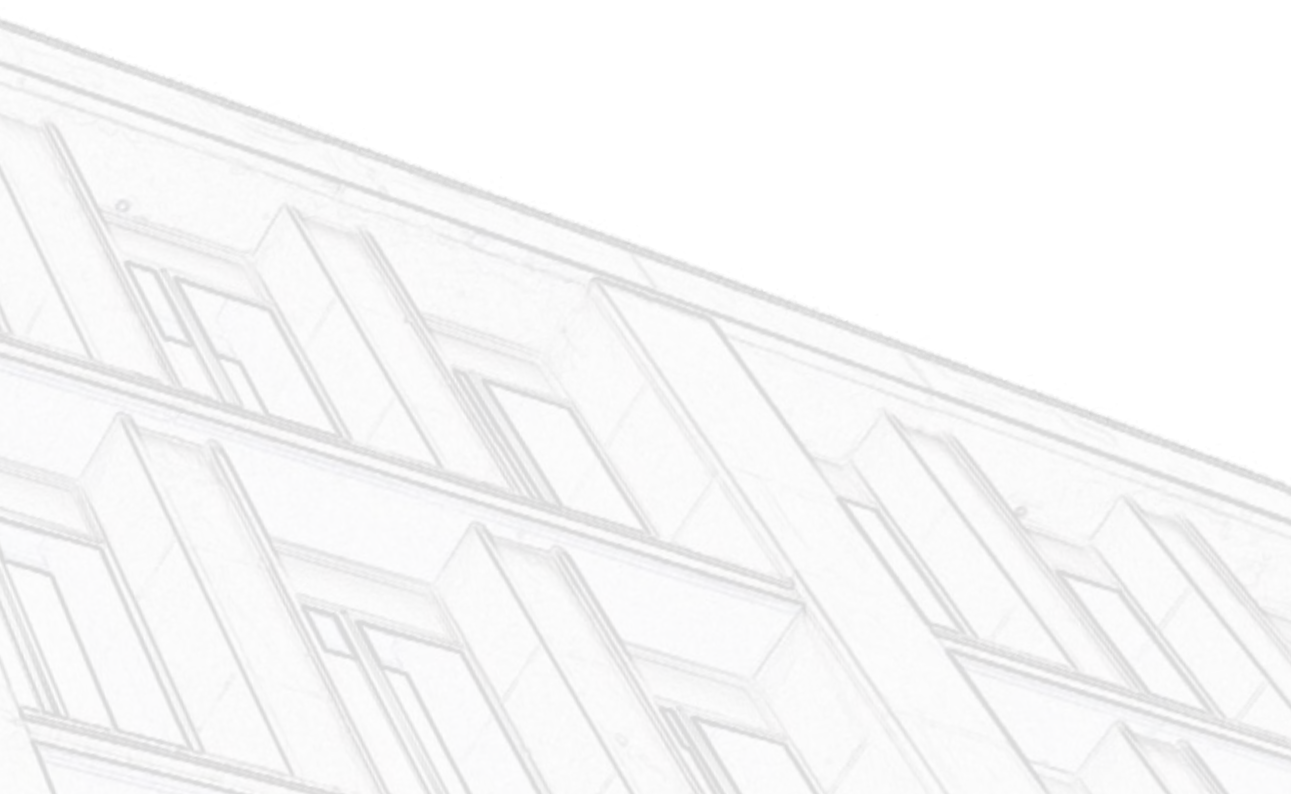


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## Commissioner's overview

The principal functions of the Parliamentary Service Commissioner are to advise the Presiding Officers on the management of policies and practices of the Parliamentary Service and to conduct any inquiries about the Parliamentary Service at the request of the Presiding Officers. The role is important although my involvement is intermittent.

This report presents information covering the four parliamentary departments collectively. Further information about the individual departments can be found in their respective annual reports.

A handwritten signature in black ink, appearing to read 'John Lloyd', with a long diagonal stroke extending upwards and to the right from the top right of the signature.

The Hon John Lloyd PSM  
Parliamentary Service Commissioner

## Introduction

The Parliamentary Service was established with the commencement of the *Parliamentary Service Act 1999* (the PS Act) on 5 December 1999.

The President of the Senate, Senator the Hon Stephen Parry, and the Speaker of the House of Representatives, the Hon Tony Smith MP, were the Presiding Officers of the Parliament at 30 June 2017.

In addition to their procedural roles in the Chambers, the Presiding Officers are responsible for the operation and administration of the four parliamentary departments which comprise the Parliamentary Service. They have individual responsibility, respectively, for the Department of the Senate and the Department of the House of Representatives and joint responsibility for the Parliamentary Budget Office (PBO) and the Department of Parliamentary Services (DPS).

The role of the Presiding Officers in relation to the parliamentary departments is similar to the role of a Minister in relation to a department of state.

My appointment as Commissioner is for a term ending on 13 December 2019. I also hold the office of Australian Public Service Commissioner until that date.

Ms Annwyn Godwin is the Parliamentary Service Merit Protection Commissioner (Merit Protection Commissioner). Her appointment is for a term ending on 24 January 2018.

Ms Godwin also holds the office of Australian Public Service Merit Protection Commissioner concurrently.

There are no specific appropriations for the offices of the Commissioner or the Merit Protection Commissioner.

## Administration of the Parliamentary Service

### Commissioner's role

The PS Act provides for an independent Commissioner appointed by the Presiding Officers. The Commissioner's role is to advise the Presiding Officers on the management of policies and practices of the Parliamentary Service and, if requested by the Presiding Officers, to inquire into and report on Parliamentary Service matters. The Commissioner is not subject to direction by or on behalf of the executive government in the performance of his functions.

The PS Act empowers the Presiding Officers to make determinations on a range of matters affecting the Parliamentary Service. The PS Act also requires the Presiding Officers to consult the Commissioner before making determinations.

Section 42 of the PS Act requires the Commissioner to give a report to the Presiding Officers for presentation to the Parliament on the activities of the Commissioner during the year.

## Merit Protection Commissioner's role

The role of the Merit Protection Commissioner includes inquiring into actions at the request of the Presiding Officers and into alleged breaches of the Code of Conduct by the Commissioner and functions prescribed in determinations made for the purposes of section 33 of the PS Act. These functions include reviewing employment actions and promotions, providing recruitment services and inquiring into alleged breaches of the Code of Conduct.

The Merit Protection Commissioner's report is at Appendix A.

## Roles and responsibilities of the individual departments

Four parliamentary departments are established under the PS Act.

The Department of the Senate and the Department of the House of Representatives (the chamber departments) provide advice and support to the Senate, the House of Representatives, Senators, Members and committees.

DPS provides a range of support services for the Parliament and for Parliament House. The services it provides, or facilitates, include library and research services, information and communication technology services, security services, building, ground and design integrity services, audio visual and Hansard services, art services, visitor services, food and beverage services, retail, health, banking and childcare services.

The PBO informs the Parliament by providing independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implication of proposals.

## Secretaries

Under the PS Act, the Secretaries of the parliamentary departments have roles and responsibilities similar to those of Australian Public Service agency heads.

The appointment of the Clerks of the Senate and the House of Representatives are made by the President and Speaker after consulting Senators and Members.

The Secretary of DPS is appointed by the Presiding Officers after receiving a report from the Commissioner.

The Parliamentary Budget Officer is appointed by the Presiding Officers after obtaining the approval of the Joint Committee for Public Accounts and Audit.

The Secretaries of the chamber departments are Mr Richard Pye, Clerk of the Senate, and Mr David Elder, Clerk of the House of Representatives. They are appointed for non-renewable terms of ten years. Mr Pye's appointment is from 9 March 2017, and Mr Elder's from 1 January 2014.

Ms Jenny Wilkinson is the Parliamentary Budget Officer and Secretary of the PBO. Her appointment is for a term of four years from 24 July 2017.



Mr Rob Stefanic was appointed to the position of the Secretary of DPS and commenced his five year term on 14 December 2015.

Dr Dianne Heriot holds the office of Parliamentary Librarian. Dr Heriot was reappointed for a second five year term on 10 May 2017.

### **Legislation**

The requirements to seek the Commissioner's endorsement of his representative's certification of Senior Executive Service (SES) engagement and promotion decisions and for the Commissioner to agree to the amount to be paid to an SES employee as an incentive to retire were removed from the *Parliamentary Service Determination 2013*. The changes took effect from 28 October 2016 and align with similar amendments to the Australian Public Service Commissioner's Directions.

### **Information and Communications Technology**

The Parliament of Australia *ICT Strategic Plan 2013–18* is used as the basis for ICT planning, investment and governance for the four parliamentary departments. Oversight is provided by the Parliamentary ICT Advisory Board (PICTAB), whose members include the Parliamentary Service Commissioner. With the formation of the 45th Parliament the representation of parliamentarians on PICTAB was increased from three to nine members. This includes three representatives from each of the Government, Opposition and Cross Bench. PICTAB continues to function as an effective advisory group on the use of ICT in the parliament and will play a pivotal role in the crafting of the new Parliamentary ICT Strategic Plan in 2018.

The Commissioner attended meetings of the PICTAB during 2016–17.

### **Liaison between the Australian Public Service Commission and the Parliamentary Service**

Representatives of the parliamentary departments and the Australian Public Service Commission liaised on relevant issues throughout the year.

The parliamentary departments are informed of major initiatives taken by the Australian Public Service Commissioner. The purpose is to ensure the Presiding Officers and Secretary are aware of employment changes that may be relevant to the management of Parliament House staff.

We informed and liaised about changes to the Australian Public Service Commissioner's Directions.

### **Staffing**

All details relating to Parliamentary Service staffing are provided in the respective departmental annual reports.

## Financial summary

The legislation establishing the special appropriations from which the Department of the Senate and the Department of the House of Representatives draw down various monies to pay for Senators' and Members' remuneration and entitlements appropriations is administered by the Department of Finance and the Australian Public Service Commission. These agencies are responsible for reporting these administered special appropriation items.

There are no separate financial reports for the Commissioner and Merit Protection Commissioner.

Any costs for the Commissioners are included within the overall financial results of the Australian Public Service Commission.



**PARLIAMENTARY SERVICE MERIT PROTECTION  
COMMISSIONER  
ANNUAL REPORT 2016–17**



The Hon John Lloyd, PSM  
Parliamentary Service Commissioner  
GPO Box 3176  
CANBERRA ACT 2601

Dear Parliamentary Service Commissioner

I have pleasure in presenting to you the Parliamentary Service Merit Protection Commissioner's annual report for the year ended 30 June 2017. Section 49 of the *Parliamentary Service Act 1999* requires that, after the end of each financial year, the Commissioner must give a report to the Parliamentary Service Commissioner on the activities of the Commissioner during the year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Annwyn Godwin'.

Annwyn Godwin  
Parliamentary Service Merit Protection Commissioner  
5 September 2017

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## Overview

The Parliamentary Service comprises the Department of Parliamentary Services, the Department of the Senate, the Department of the House of Representatives and the Parliamentary Budget Office.

The Parliamentary Service Merit Protection Commissioner (the Merit Protection Commissioner) is responsible for independent and impartial review of employment actions in the Parliamentary Service. Merit-based recruitment is also conducted through the establishment of Independent Selection Advisory Committees (ISACs).

The Merit Protection Commissioner provides assurance, with respect to staffing decisions, to the Parliament and the community. That is, an assurance the Parliamentary Service Employment Principles and Values are applied effectively by Parliamentary Service decision-makers with respect to staffing decisions. By reviewing departmental decisions the Merit Protection Commissioner supports fair, transparent, and ethical decision-making. Through promotion reviews and ISACs, the Merit Protection Commissioner supports merit-based recruitment and provides independent assurance on the quality of selection outcomes.

## Focus on the year

The Merit Protection Commissioner met with the Secretary of the Department of Parliamentary Services on a number of occasions in 2016–17. These meetings discussed a variety of issues relevant to both the public service and parliamentary service environments. For example, trends and research in review and integrity issues, lessons learnt from other jurisdictions to better integrate and improve employment-related decision-making and, sharing observations based on reviews.

The Merit Protection Commissioner also assisted in a large recruitment exercise for a Band 2 position within the Department of Parliamentary Services.

## Outcomes for the year

### Review of action performance

The review system, established under section 33 of the *Parliamentary Service Act 1999* (the PS Act) and by the *Parliamentary Service Determination 2013* (the Determination), allows Parliamentary Service employees to seek review of employment actions.

Parliamentary Service employees are able to apply directly to the Merit Protection Commissioner for a review of a determination that they have breached the Code of Conduct, and/or sanction(s) imposed as a result of a breach of the Code. Employees are also able to apply for review by the Merit Protection Commissioner of other employment decisions if they are not satisfied with the review undertaken in the parliamentary department.

In 2016–17, the Merit Protection Commissioner conducted reviews of breaches of the Parliamentary Service Code of Conduct and/or sanctions imposed and other employment actions. All casework received was submitted by employees in the Department of Parliamentary Services (the Department).

There were six applications for review received by the Merit Protection Commissioner in 2016–17 and two on hand at the beginning of the year. Three applications related to Code of Conduct matters were reviewed. The three reviews were completed within the target timeframe of 14 weeks and the Department’s decisions were upheld.

Two applications were made for primary review by the Merit Protection Commissioner as a result of involvement by the Departmental Secretary. Of these, one was not accepted as the application was considered to be misconceived or lacking in substance. The other application was reviewed and the Merit Protection Commissioner found the allegations to be lacking in substance.

Three applications were received for secondary review of employment decisions. Two of the applications involving workplace directions and allegations of bullying and harassment were not accepted as the Merit Protection Commissioner considered that further review was not justified in the circumstances. The remaining case relating to performance management, on hand at the end of the reporting period, was still within the target date for completion.

The PS Act also provides a right of review by the Merit Protection Commissioner of a determination that a former Parliamentary Service employee has breached the Code of Conduct where that finding was made after the employee left the employment and was related to actions the employee took when employed in the Parliamentary Service (Part 11, Division 4 of the Determination). No requests were received from former employees during the reporting period.

### **Promotion review performance**

The Merit Protection Commissioner establishes promotion review committees (PRCs) to conduct merits review of promotion decisions for jobs in Parliamentary classification groups 2 to 6. A PRC comprises a convenor, a nominee from the relevant department and a third member nominated by the Merit Protection Commissioner.

The only ground for a review of a promotion decision is merit. The PRC has the power to confirm the promotion decision made by the department or substitute a different decision. Promotion reviews provide assurance of the integrity of the process and the outcome.

In 2016–17, the Merit Protection Commissioner did not receive any applications for review of a promotion decision within the Parliamentary Service.

## Independent selection advisory committee (ISAC) performance

An ISAC is an independent three-member committee that makes recommendations to a Secretary about the suitability of candidates for employment opportunities at the Parliamentary Service 1–6 levels. An ISAC's recommendation is not binding on a Secretary; however, if it is accepted, any resulting promotion decisions are not subject to promotion review.

ISACs provide departments and their employees with greater confidence in the fairness and integrity of the selection process and outcomes.

There were no requests for the establishment of an ISAC in 2016–17.

## Other functions

The functions of the Merit Protection Commissioner include:

- inquiring into and determining whether a Parliamentary Service employee, or former employee, has breached the Code of Conduct. (The request is made by the relevant Secretary and must have the written agreement of the Parliamentary Service employee or former employee).
- investigating a complaint by a former Parliamentary Service employee that relates to the employee's final entitlements on separation from the Parliamentary Service.

In January 2017, the Merit Protection Commissioner finalised an inquiry into an alleged breach of the Code of Conduct by an employee in the Department of Parliamentary Services.

The Merit Protection Commissioner was not required to investigate any complaints relating to separation entitlements in 2016–17.

## Focus for the coming year

The work of the Merit Protection Commissioner is largely demand-driven. Levels of casework are expected to be small.

The Merit Protection Commissioner will work with departmental Secretaries to increase awareness amongst Parliamentary Service employees of the review of actions scheme. The intent is to reassure staff that there is an independent assessment process which provides a high level of assurance that employment-based decisions are fair and made in accordance with the relevant legislative and policy framework. Where appropriate, the Merit Protection Commissioner will discuss with the Parliamentary Service departments lessons learned from her casework.

The Merit Protection Commissioner has established a panel of skilled persons to inquire into alleged breaches of the Code of Conduct on a fee-for-service basis. This service can assist with complex and contested cases that would benefit from an independent and credible investigation. A memorandum of understanding between the Department of Parliamentary Services and the Merit Protection Commissioner for the provision of Code of Conduct inquiries was signed in July 2016.

In 2017–18, the Merit Protection Commissioner will provide information on ISACs to departments as a cost-effective way of selecting staff.



## **Governance, management and accountability**

The Merit Protection Commissioner is Ms Annwyn Godwin. Ms Godwin was reappointed by the Presiding Officers for a second five year term in January 2013, this term will finish in January 2018. It has been an honour to serve the Parliament of Australia and the community through this role.

## **Role and functions**

The Merit Protection Commissioner is an independent statutory office established under section 47 of the PS Act.

The Merit Protection Commissioner's functions under the PS Act are set out in subsection 48(1) of the Act and in Parts 8, 9 and 11 of the Determination.

## **Organisational structure**

The Australian Public Service Commissioner, under subsection 49(2) of the *Public Service Act 1999*, makes available the services of employees of the Australian Public Service Commission to assist the Merit Protection Commissioner in the performance of her functions including her functions as Parliamentary Service Merit Protection Commissioner. In this role, the employees are accountable to the Parliamentary Service Merit Protection Commissioner.

In 2016–17, the Merit Protection Commissioner was supported by staff in the Office of the Merit Protection Commissioner within the Australian Public Service Commission. The majority of these employees are located in Sydney.

There is no appropriation for the Merit Protection Commissioner and her activities are included in the financial statements of the Australian Public Service Commission.

