



Parliamentary Service Commissioner

ANNUAL REPORT

2015–16

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The document must be attributed as the *Australian Parliamentary Service Commissioner annual report 2015–16, incorporating the annual report of the Parliamentary Service Merit Protection Commissioner.*

Parliamentary Service Commissioner
ANNUAL REPORT
2015–16



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 2016. 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 diagonal line extending upwards and to the right from the end of the signature.

John Lloyd PSM
29 September 2016

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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.

A key development during 2015–16 was the appointment Mr Rob Stefanic as Secretary of the Department of Parliamentary Services. Mr Stefanic is well qualified for the position having previously served in a senior role in Parliament of New South Wales.

I completed a review into the Department of Parliamentary Services in December 2015. The timing of the review was fortuitous as it was concluded at about the time Mr Stefanic took up his appointment. It therefore assisted him, as a new Secretary, in assessing the Department's capacity to meet future challenges and opportunities.

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

Hon John Lloyd PSM
Parliamentary Service Commissioner

Introduction

The Parliamentary Service was established with the commencement of the *Parliamentary Service Act* (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 2016. Mr Smith was appointed Speaker on 10 August 2015, replacing the Hon Mrs Bronwyn Bishop MP.

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 Department of 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 to 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 Parliamentary Service 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. Its services include information services to the Parliament, security, facilities, visitor services, building management and maintenance, landscaping, ICT, telecommunications management, broadcasting and records services.

The Parliamentary Budget Office 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 the 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 Dr Rosemary Laing, Clerk of the Senate, and Mr David Elder, Clerk of the House of Representatives. They are appointed for non-renewable terms of ten years. Dr Laing's appointment is from 5 December 2009, and Mr Elder from 1 January 2014. Mr Phil Bowen PSM FCPA is the Parliamentary Budget Officer and Secretary of the Parliamentary Budget Office. His appointment is for a term of four years from 23 July 2012.

Mr Rob Stefanic was appointed to the position of the Secretary of DPS and commenced duty on 14 December 2015.

Dr Dianne Heriot holds the office of Parliamentary Librarian. Her appointment is for five years from 10 May 2012.

Legislation

There were no legislative changes made during the year.

Reports under the Parliamentary Services Act

A review of the DPS was completed in December 2015.

The review was conducted pursuant to s 40(1)(b) of the *Parliamentary Services Act 1999*.

The review examined the structures, systems and staffing profile of the DPS. It made several recommendations concerning funding, staff structure, job titles and management of the building.

Mr Ken Baxter was engaged to assist me in the review.

The review report was presented to the Presiding Officers in December 2015. The Presiding Officers subsequently asked me to pass a copy of the report to Mr Stefanic. This assisted him in assessing the status of the DPS and what was required to equip the DPS to meet future challenges. A number of initiatives are being implemented to improve the governance of the DPS and its engagement with the other parliamentary departments.

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. During 2015–16 PICTAB resolved to undertake a mid-point review of the ICT strategic plan. The review was completed in June 2016.

Parliamentary Administration Advisory Group

The Parliamentary Administration Advisory Group (PAAG) supports the Parliamentary Heads Group by overseeing the implementation of corporate initiatives and services of common interest across the parliamentary departments. Its members are an SES employee nominated by each of the Parliamentary Heads:

- Usher of the Black Rod, Department of the Senate
- Serjeant-at-Arms, Department of the House of Representatives
- Assistant Parliamentary Budget Officer, Corporate Strategy, Parliamentary Budget Office
- Assistant Secretary, People, Strategy and Governance Branch, Department of Parliamentary Services

Liaison between the Australian Public Service Commission and the Parliamentary Service

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

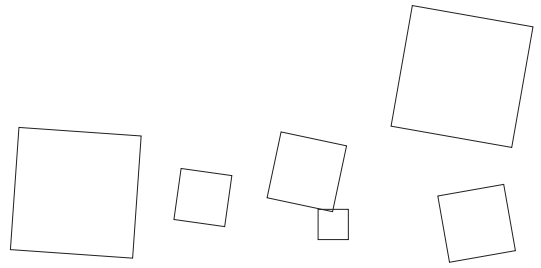
Staffing

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 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.

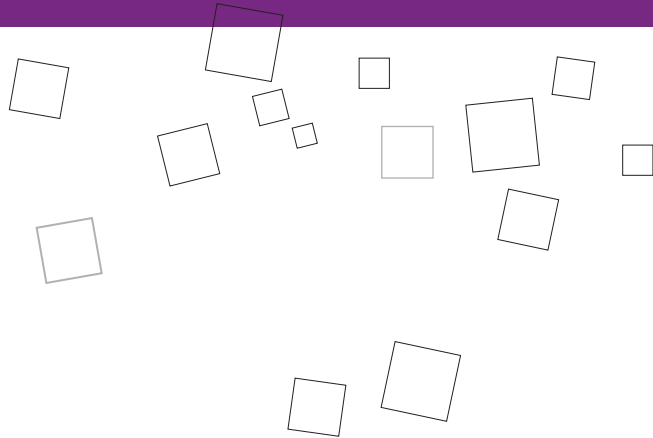
There are no separate financial reports for the Commissioner and Merit Protection Commissioner. Any costs for the Commissioners are included within the overall financial results of the Australian Public Service Commission.



Parliamentary Services Merit Protection Commissioner

ANNUAL REPORT

2015–16





The Hon John Lloyd PSM
Parliamentary Service Commissioner
16 Furzer Street
Phillip ACT 2606

Dear Parliamentary Service Commissioner

I have pleasure in presenting the Parliamentary Service Merit Protection Commissioner's annual report for the year ended 30 June 2016. Section 49 of the *Parliamentary Service Act 1999* requires that, after the end of the 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
30 August 2016

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Overview

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 that 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

Discussions were held between staff supporting the Merit Protection Commissioner and the Parliamentary Service Liaison Officer until the position was abolished in March 2016. These meetings discussed the policy framework supporting the functions of the Merit Protection Commissioner and the handling of routine correspondence.

Policies and guidelines, supporting documents, and the website, relating to the Merit Protection Commissioner role were discussed and updated during 2015–16.

The Merit Protection Commissioner met with the Secretary of the Department of Parliamentary Services on a number of occasions in 2015–16. These meetings discussed trends in review and integrity issues and, options to improve employment-related decision-making.

The Merit Protection Commissioner also sat on a selection panel for a Band 2 position within the Department of Parliamentary Services. This was as the Parliamentary Service Commissioner's representative in accordance with clause 21 of the Parliamentary Service Determination 2013.

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 sanctions imposed as a result of that breach. 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 2015–16, the Merit Protection Commissioner conducted reviews of breaches of the Parliamentary Service Code of Conduct and/or sanctions imposed. No applications for review of other employment actions were received. All casework received was submitted by employees in the Department of Parliamentary Services (the Department).

There were three applications for review received by the Merit Protection Commissioner in 2015–16 and two on hand at the beginning of the year. The five applications related to Code of Conduct matters. Of these, one was not accepted as the application was made outside the required timeframe and one lapsed as the Department decided to commence a new investigation. The one finalised review relating to the imposition of a sanction was completed within the target timeframe of 14 weeks and the Department's decision was upheld. The remaining two cases on hand at the end of the reporting period, were still well 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.

In 2015–16, the Merit Protection Commissioner convened one PRC to consider applications for review of three promotions arising from a selection exercise in the Department of Parliamentary Services finalised in November 2015. The PRC upheld the three promotions decisions. The PRC was completed within the eight week target timeframe.

Promotion reviews provide assurance of the integrity of the process and the outcome.

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 2015–16.

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 late June 2016, the Merit Protection Commissioner received a request for an inquiry into an alleged breach of the Code of Conduct from the Department of Parliamentary Services. The inquiry commenced in July 2016.

The Merit Protection Commissioner was not required to investigate any complaints relating to separation entitlements in 2015–16.

Outlook 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 continue to 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. The Merit Protection Commissioner will discuss with Parliamentary Service departments lessons learned from her casework as required.

Where appropriate, the Merit Protection Commissioner will work with department heads to promote cultural change. The approach will be tailored to address areas of specified concern.

The other focus for the year will be informing Parliamentary Service departments of the Merit Protection Commissioner's fee-for-service functions as a means to improve decision-making.

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. The Merit Protection Commissioner will arrange meetings with senior management in the other departments to discuss the service and its potential benefits.

In 2016–17, 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.

During 2015–16, Ms Amanda MacDonald acted as Merit Protection Commissioner for the period 1 July to 21 August 2015 and Ms Kay Ransome for the period 22 August to 11 September 2015.

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, 11 and 12 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 2015–16, 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.

The Merit Protection Commissioner received some assistance from the Parliamentary Service Liaison Officer who was an employee of the Department of Parliamentary Services. This stand-alone role was discontinued in March 2016 and the work transferred to the Department of Parliamentary Services legal team.

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

