



Parliamentary Service Commissioner  
**annual report** 2012–13



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Parliamentary Service Commissioner  
**annual report 2012–13**





## PARLIAMENTARY SERVICE COMMISSIONER

Stephen Sedgwick

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 2013. 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, consisting of several fluid, sweeping strokes.

Stephen Sedgwick

October 2013

## TABLE OF CONTENTS

Commissioner's overview.....	vii
Introduction.....	1
Administration of the Parliamentary Service .....	3
Administrative arrangements .....	6
Appendix A	
Parliamentary Service Merit Protection Commissioner's review of 2012–13 .....	11



## COMMISSIONER'S OVERVIEW

In my report for 2011–12 I foreshadowed a Parliamentary Service bill to introduce changes to the Parliamentary Service Act modelled on changes to the Public Service Act that arose from the report *Ahead of the game: Blueprint for the reform of Australian Government administration* (the *Blueprint*).

The *Parliamentary Service Amendment Act 2013* received the Royal Assent on 1 March 2013 and comes into effect on 1 July 2013. Significant changes made by this Act include more concise Parliamentary Service Values, complemented in the legislation by a set of Employment Principles; expanded roles and responsibilities of secretaries; revised roles of the Senior Executive Service; power for the Parliamentary Service Commissioner to investigate whistleblower complaints; and a power for the Merit Protection Commissioner to delegate his or her powers to Parliamentary Service or Australian Public Service employees.

The amended Parliamentary Service Act will be supported by Parliamentary Service Determination 2013 which largely reflects the subordinate legislation supporting the Public Service Act. The Presiding Officers made the determination with effect from 1 July 2013 after consulting with me as required by the Parliamentary Service Act.

As required by the Parliamentary Service Act, I issued the Parliamentary Service Commissioner's Direction 2013, effective from 1 July 2013. The direction establishes basic requirements for parliamentary department secretaries' procedures for handling suspected Code of Conduct breaches.

I met with the parliamentary department heads on 6 November 2012 to discuss the legislative changes mentioned above; the provision of training to APS employees on parliamentary matters; guidelines on mobility between the two Services; consultation on systems changes (such as changes to the *Gazette*) arising from the *Blueprint* reforms; award modernisation; and a review of information and communications technology in the parliamentary administration.

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



Stephen Sedgwick AO  
Parliamentary Service Commissioner  
October 2013





## INTRODUCTION

The Parliamentary Service was established with the commencement of the Parliamentary Service Act on 5 December 1999.

The President of the Senate, Senator the Hon John Hogg, and the Speaker of the House of Representatives, Ms Anna Burke MP, were the Presiding Officers of the Parliament as at 30 June 2013.

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 and the Department of Parliamentary Services.

The role of the Presiding Officers in relation to the parliamentary departments is similar, but not identical, to that of a Minister administering an executive department.

Mr Stephen Sedgwick AO is the Parliamentary Service Commissioner (Commissioner). Mr Sedgwick's appointment is to 13 December 2014. He also holds the office of Australian Public Service Commissioner until that date.

Ms Annwyn Godwin is the Parliamentary Service Merit Protection Commissioner (Merit Protection Commissioner). The Presiding Officers re-appointed Ms Godwin to the office for five years from 25 January 2013. She also holds the office of Public Service Merit Protection Commissioner concurrently.

The Presiding Officers have in place a standing acting arrangement that applies when the Commissioner or the Merit Protection Commissioner are absent or there are vacancies in their offices or they are, for any reason, unable to perform the duties of their offices. These circumstances will usually occur in conjunction with similar circumstances in the respective Public Service offices. Under the standing arrangement, a person acting in either of the Public Service offices is also appointed to act in the relevant Parliamentary Service office.

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



## ADMINISTRATION OF THE PARLIAMENTARY SERVICE

### REVIEW OF THE PARLIAMENTARY SERVICE ACT

The Commissioner's Annual Report 2011–12 foreshadowed a bill to change the *Parliamentary Service Act 1999* (Parliamentary Service Act) to mirror, where appropriate, changes made to the *Public Service Act 1999* (Public Service Act) that arose from the report *Ahead of the game: Blueprint for the reform of Australian Government administration* (the *Blueprint*).

The *Parliamentary Service Amendment Act 2013* received Royal Assent on 1 March 2013 and came into effect on 1 July 2013 when the changes to the Public Service Act also came into effect. Changes to the Parliamentary Service Act include:

- revised Parliamentary Service Values and a set of Employment Principles
- a statement about the role of the Parliamentary Service
- expanded roles and responsibilities of secretaries
- revised roles of the Senior Executive Service
- revised provisions for receiving and dealing with whistleblower reports
- revised arrangements for the provision and use of confidential information
- a power for the Merit Protection Commissioner to delegate his or her powers to Parliamentary Service or Australian Public Service employees.

The amended Parliamentary Service Act is supported by the Parliamentary Service Determination 2013 made by the Presiding Officers on 26 June 2013 and effective from 1 July 2013. The Presiding Officers made this determination after consultation with the Parliamentary Service Commissioner as required by the Parliamentary Service Act.

On 25 June 2013 the Parliamentary Service Commissioner issued the Parliamentary Service Commissioner's Direction 2013, which establishes basic requirements for parliamentary department secretaries' procedures for handling suspected Code of Conduct breaches.

### FREEDOM OF INFORMATION

The Parliamentary Service Commissioner Annual Report 2011–12 indicated that the Australian Information Commissioner had amended the guidelines issued under the *Freedom of Information Act 1982* (the FOI Act) in May 2012 to state that the Department of the House of Representatives, the Department of the Senate and the Department of Parliamentary Services (DPS) were subject to the FOI Act. Prior to this, it had been accepted that the FOI Act did not apply to the departments of the Parliament. This change did not result from an amendment to the FOI Act or any other legislation.

The *Parliamentary Service Amendment (Freedom of Information) Act 2013*, which came into effect on 28 June 2013, excludes the parliamentary departments and office holders under the Parliamentary Service Act from the FOI Act. The effect of the amending legislation is that, as of 28 June 2013, the FOI Act is taken not to apply and not to have ever applied to the parliamentary departments and persons who hold or perform duties of an office established under the Parliamentary Service Act.

The Parliamentary Budget Office (PBO) is expressly exempted from the application of the FOI Act, under s. 7(1) and Division 1 of Part 1 of Schedule 2 of the FOI Act.

## PARLIAMENTARY BUDGET OFFICE

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The *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013* amended the Parliamentary Service Act, with effect from 30 June 2013, to give the Parliamentary Budget Officer an additional function of preparing a report on designated parliamentary parties' publicly announced policies by 30 days after a government forms following a general election. The amendments also enhanced the PBO's access to information from Commonwealth bodies to assist in delivering the report and amended the *Taxation Administration Act 1953* to allow the Australian Taxation Office to provide confidential taxpayer data to the PBO for the purposes of the PBO's statutory functions.

## INFORMATION AND COMMUNICATIONS TECHNOLOGY REVIEW

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In November 2011 the Presiding Officers commissioned Mr Michael Roche to undertake a review of information and communication technology (ICT) services provided to the Parliament. The Roche Review report was tabled at the Supplementary Budget Estimates hearing of the Senate Finance and Public Administration Legislation Committee in October 2012.

The Roche Report made 11 recommendations to develop and implement a whole-of-Parliament approach to the delivery of ICT services. The recommendations included: the establishment of a one-stop shop to address the needs of Senators and Members; the development of a Parliament of Australia ICT strategic plan; the establishment of a Parliamentary ICT advisory board to provide guidance and advice on ICT strategic issues; the appointment of a Chief Information Officer (CIO); and the consolidation within DPS of ICT resources across the parliamentary departments. Significant progress has been made to implement the Roche Report recommendations.

In January 2013, a CIO was appointed to lead a new DPS ICT division and to act as a focus for Parliament-wide ICT issues.

The Parliamentary ICT Advisory Board (PICTAB) was established to oversee the development and progress of the parliamentary ICT strategic plan and to provide guidance to the CIO on strategic objectives and outcomes.

The Board consists of eight representatives from the following:

- the four parliamentary departments
- the Parliamentary Service Commissioner
- Government
- Opposition
- minor parties/independents.

PICTAB first met on 29 November 2012. It met a further three times in 2012–13.

The consolidation of parliamentary ICT functions progressed with agreement to the formal transfer of ICT staff from the chamber departments to DPS on 1 July 2013.

DPS and the Department of Finance and Deregulation collaborated to reform the electorate office mobile phone (Mobile Personal Digital Assistant, or MPDA) entitlement. The new entitlement will allow Senators and Members greater choice of devices. DPS also established a one-stop shop to enable Senators and Members and their staff to preview a range of equipment available under the entitlement.

At the conclusion of the reporting period, work was proceeding, under the guidance of PICTAB, on the development of a Parliament of Australia ICT Strategic Plan 2013–18.

## COMMON SERVICE ARRANGEMENTS

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Previous annual reports have referred to work by the parliamentary departments addressing common service arrangements. The main related development during the year was the ICT changes reported above. In addition, the Department of the House of Representatives continued to provide the payroll function for DPS and the PBO during the year, and DPS provided corporate support services for the PBO.

## INQUIRIES

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Section 40(1)(b) of the Parliamentary Service Act enables the Commissioner to inquire into and report on matters relating to the Parliamentary Service, if requested by the Presiding Officers. No requests were made during the reporting period.

## LIAISON BETWEEN THE AUSTRALIAN PUBLIC SERVICE COMMISSION AND THE PARLIAMENTARY SERVICE

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Representatives of the parliamentary departments and the Commission have continued to liaise on relevant current issues, including the changes to the Parliamentary Service Act and subordinate legislation, award modernisation, and the Public Interest Disclosure Bill.

There was also substantial executive-level consultation on the draft of Parliamentary Service Determination 2013.

## ADMINISTRATIVE ARRANGEMENTS

### COMMISSIONER'S ROLE

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The Parliamentary Service Act provides for an independent Commissioner appointed by the Presiding Officers. The Commissioner's role is to advise the Presiding Officers on the management 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 Parliamentary Service Act empowers the Presiding Officers to make determinations on a range of matters affecting the Parliamentary Service. The Parliamentary Service Act also requires the Presiding Officers to consult the Commissioner before making these determinations.

Section 42 of the Parliamentary Service 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

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The role of the Merit Protection Commissioner includes inquiring into whistleblower reports and alleged breaches of the Code of Conduct; functions prescribed in determinations made for the purposes of section 33 of the Parliamentary Service Act (review of actions); and inquiring into actions at the request of the Presiding Officers.

Section 49 of the Parliamentary Service Act requires the Merit Protection Commissioner to give a report to the Commissioner for inclusion in the Commissioner's report under section 42.

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

### ROLES AND RESPONSIBILITIES OF THE INDIVIDUAL DEPARTMENTS

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Four parliamentary departments are established under the Parliamentary Service Act.

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

The purpose of the Department of the Parliamentary Budget Office is to inform the Parliament by providing independent advice and non-partisan analysis of the budget cycle, fiscal policy and the financial impact of proposals. As reported above, the Parliamentary Budget Officer, since 29 June 2013, has an additional function of reporting on designated Parliamentary parties' publicly announced policies by 30 days after a government forms following a general election.

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.

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

Appointments to statutory offices under the Parliamentary Service Act are made by the Presiding Officers.

The Secretaries of the chamber departments are Dr Rosemary Laing, Clerk of the Senate, and Mr Bernard Wright, Clerk of the House of Representatives. Both were appointed for non-renewable terms of ten years from 5 December 2009. Mr Phil Bowen PSM is the Parliamentary Budget Officer and Secretary of the Department of the Parliamentary Budget Office; his appointment is for a term of four years from 23 July 2012. Ms Carol Mills is Secretary, DPS; she was appointed for five years from 28 May 2012.

## **PARLIAMENTARY LIBRARIAN**

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

## STAFFING SUMMARY

The following tables present a summary of Parliamentary Service staffing as at 30 June 2013.

Numbers are actual staff numbers at 30 June 2013.

Category	Department				Total
	Senate	House of Representatives	Parliamentary Budget Office	Parliamentary Services	

### Categories of employment

Ongoing	143	136	29	706	1014
Non-ongoing	18	36	4	126	184
<b>Total</b>	<b>161</b>	<b>172</b>	<b>33</b>	<b>832</b>	<b>1198</b>

### Full-time and part-time employment (includes casual)

Full-time	130	141	32	594	897
Part-time	31	31	1	238	301
<b>Total</b>	<b>161</b>	<b>172</b>	<b>33</b>	<b>832</b>	<b>1198</b>

### Employment by work group

Sec/SES	6	5	7	12	30
Executive*	48	58	17	166	289
Other	107	109	9	654	879
<b>Total</b>	<b>161</b>	<b>172</b>	<b>33</b>	<b>832</b>	<b>1198</b>

\* Groups 7 and 8 of the Classification Rules

### Total staff numbers at 30 June

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Number</b>	<b>1259</b>	<b>1311</b>	<b>1286</b>	<b>1193</b>	<b>1181</b>	<b>1256</b>	<b>1223</b>	<b>1181</b>	<b>1179</b>	<b>1186</b>

### Staff turnover (ongoing employees)

There were 146 separations of ongoing employees during the year, representing 12.3% of ongoing staff.



**Staff numbers by classification and gender at 30 June**

Year	2008		2009		2010		2011		2012		2013	
	No	%	No	%	No	%	No	%	No	%	No	%
<b>SES/Secretary –</b>												
Male	11	50	13	54	9	47	8	36	8	36	14	47
Female	11	50	11	46	10	53	14	64	14	64	16	53
<b>Executive –</b>												
Male	175	57	166	55	152	54	155	56	148	54	156	54
Female	134	43	138	45	128	46	124	44	127	46	133	46
<b>Other –</b>												
Male	523	57	511	57	498	56	502	57	516	58	510	58
Female	402	43	384	43	384	44	376	43	373	42	369	42
<b>Total –</b>												
Male	709	56	690	56	659	56	665	56	672	57	680	57
Female	547	44	533	44	522	44	514	44	514	43	518	43

**Workplace Diversity**

Department	Senate	House of Representatives	Parliamentary Budget Office	Parliamentary Services	Total
<b>Gender –</b>					
Male	71	75	20	514	680
Female	90	97	13	318	518
<b>English not first language spoken*</b>					
	3	8	2	71	84
<b>ATSI origin*</b>					
	–	–	–	4	4
<b>Staff who have identified a disability*</b>					
	–	4	1	3**	8

\*Information provided on a voluntary basis.

\*\* Likely to be under-reported. A diversity census scheduled for 2012–13 has been delayed to 2013–14 pending the release of a new workplace diversity policy.

**Ongoing staff—age distribution**

Age	Under 25	25–34	35–44	45–54	55 and over
Number	30	177	282	274	251
%	3.0	17.5	27.8	27.0	24.7

## FINANCIAL SUMMARY

The following table presents a summary of the parliamentary departments' total revenue, 2012-13.

The Department of the Senate, the Department of the House of Representatives and the Department of Parliamentary Services are not responsible for preparing the administered schedules and notes relating to the special appropriations from which they draw down various monies to pay for Senators' and Members' remuneration and entitlements. The legislation establishing these appropriations is administered by the Department of Finance and Deregulation and the Australian Public Service Commission. These agencies are responsible for reporting these administered special appropriation items and they are not included in the table below.

	Total revenue			Equity injection		
	Revenue from government	Resources received free of charge	Sale of goods and services etc	Total	Departmental capital budget	Administered
<i>Parliamentary departments</i>	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Senate</b>	20,484	1,881	422	22,787	657	–
<b>House of Representatives</b>	21,913	1,957	1,501	25,371	1,050	–
<b>Parliamentary Budget Office</b>	6,191	185	–	6,376	–	–
<b>Parliamentary Services</b>	101,160	163	6,801	108,124	9,747	12,896
<b>Total</b>	149,748	4,186	8,724	162,658	11,454	12,896

An appropriation of \$6 million for the Parliamentary Budget Office made under section 64 of the *Parliamentary Service Act 1999* has not been expended and will be available in 2013-14.

## APPENDIX A

### PARLIAMENTARY SERVICE MERIT PROTECTION COMMISSIONER'S REVIEW OF 2012-13

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#### INTRODUCTION

The Parliamentary Service Merit Protection Commissioner (the Merit Protection Commissioner) is Ms Annwyn Godwin. Ms Godwin was appointed by the Presiding Officers on 12 March 2008 and in January 2013 she was reappointed for a second five year term.

During 2012-13 Mr Patrick Palmer acted as Merit Protection Commissioner for two periods, between 7 and 15 March 2013 and between 13 May and 30 June 2013. Ms Karin Fisher acted as Merit Protection Commissioner between 16 and 20 July 2012 and between 22 and 26 October 2012.

The Parliamentary Service Values set out in section 10 of the *Parliamentary Service Act 1999* (the Act) provide the context for the performance of the Merit Protection Commissioner's functions. One of these values is that 'the Parliamentary Service provides a fair system of review of decisions taken in respect of Parliamentary Service employees'.

Those functions include the review of certain actions affecting Parliamentary Service employees in their employment, such as the review of promotion decisions and inquiries into Parliamentary Service actions, including, in some circumstances, breaches of the Parliamentary Service Code of Conduct.

#### OUTLOOK FOR 2013-14

The work of the Merit Protection Commissioner is largely demand-led and levels of casework are expected to be small.

Work will be undertaken in response to the changes introduced by the *Parliamentary Service Amendment Act 2013* which took effect on 1 July 2013. The Merit Protection Commissioner will issue new Instructions for the conduct of promotion review committees (PRCs) and Independent Selection Advisory Committees (ISACs) and written procedures for the Commissioner's new function of inquiring into breaches of the Code of Conduct by former employees in certain circumstances.

The commencement of the *Public Interest Disclosure Act 2013* and the *Public Interest Disclosure (Consequential Amendments) Act 2013* in January 2014 will, among other things, repeal section 16 (Whistleblower reports) of the Act and provide for new functions for the Merit Protection Commissioner. Work will be required to ensure that the changes are supported as necessary by Parliamentary Service Determinations and in associated policies and guidance material.

#### OVERVIEW OF 2012-13

##### Role

The Merit Protection Commissioner is an independent statutory office established by section 47 of the Act. Under the Act, the Merit Protection Commissioner fulfils an ombudsman-like role for employment-related complaints, with powers to make recommendations and provide reports to the secretaries of the parliamentary departments.

## Functions

The Merit Protection Commissioner's functions under the Act as at 30 June 2013 are set out in subsection 48(1) and include:

- (a) to inquire into whistleblowing reports made to the Merit Protection Commissioner by employees alleging breaches of the Code of Conduct
- (b) to inquire into alleged breaches of the Code of Conduct by the Parliamentary Service Commissioner and report to the Presiding Officers on the results of such inquiries including, where relevant, recommendations for sanctions
- (c) to inquire into a Parliamentary Service action at the request of the Presiding Officers and to report to the Presiding Officers on the results of the inquiry
- (d) such functions as are prescribed by determinations made for the purposes of section 33 (reviews of employment actions)
- (e) such other functions as are prescribed by the determinations.

The review system, established under section 33 of the Act and by Parliamentary Service determinations made under the Act, gives Parliamentary Service employees the capacity to seek review of employment actions taken by secretaries of parliamentary departments or Parliamentary Service employees. The system allows for external review by the Merit Protection Commissioner or, in relation to promotion decisions, by a Promotion Review Committee established by the Merit Protection Commissioner.

The Merit Protection Commissioner's functions were amended with effect from 1 July 2013 by the *Parliamentary Service Amendment Act 2013*. The amendments do not significantly affect the primary role of the Merit Protection Commissioner as an independent review body on employment matters and the revised functions will be set out in next year's annual report.

## Implementation of the review framework

Parliamentary Service employees have access to the Act and determinations describing the functions of the Merit Protection Commissioner on the Parliament House website.

## Organisation structure

The Merit Protection Commissioner is supported by staff in the Ethics Group of the Australian Public Service Commission. The majority of these staff are located in Sydney.

The Merit Protection Commissioner receives some assistance from the Parliamentary Service Liaison Officer who is an employee of the Department of Parliamentary Services.

Readers with enquiries about the Merit Protection Commissioner's Annual Report should contact:

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16 Furzer Street

Phillip ACT 2606

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Fax: (02) 6202 3534

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## REVIEW OF PERFORMANCE

### CASEWORK UNDER THE ACT

#### APPLICATIONS FOR REVIEWS OF ACTIONS INCLUDING PROMOTION REVIEW

There were no applications for review received by the Merit Protection Commissioner in 2012-13.

#### APPLICATIONS FOR INDEPENDENT SELECTION ADVISORY COMMITTEES

An ISAC is a three-member committee that makes recommendations to an agency head about the suitability of candidates for employment opportunities at the Parliamentary Service 1-6 levels.

In 2012-13, the Merit Protection Commissioner received one application for an ISAC from the Department of Parliamentary Services. The ISAC was finalised in July 2013.

#### WHISTLEBLOWING

One whistleblower report was received by the Merit Protection Commissioner in 2012-13. This report and two other reports from the same employee carried over from 2011-12 were finalised in December 2012. The Merit Protection Commissioner's inquiries found that the allegations were either misconceived or lacking in substance. The Commissioner, therefore, found no basis for recommending to the Secretary of the Department of Parliamentary Services that an investigation of the employee's allegations be started under the department's procedures for determining a breach of the Code of Conduct.

#### PARLIAMENTARY INQUIRY INTO THE PERFORMANCE OF THE DEPARTMENT OF PARLIAMENTARY SERVICES AND OTHER MATTERS

The Senate Standing Committee on Finance and Public Administration (References Committee) tabled its final report into the performance of the Department of Parliamentary Services (the Department) in November 2012. The Department consulted the Merit Protection Commissioner about the implementation of recommendations, particularly recommendation nine which concerned the establishment of ISACs for recruitment processes. Ms Godwin discussed with Ms Carol Mills, the Secretary of the Department, the role and functions of the Merit Protection Commissioner and ways to promote merit-based recruitment. Following these discussions, as indicated above, the Merit Protection Commissioner developed a memorandum of understanding with the Department for the establishment of an ISAC to undertake staff selection in the Department.

Discussions were also held between staff supporting the Merit Protection Commissioner and the Parliamentary Service Liaison Officer through the year about the policy framework supporting the functions of the Merit Protection Commissioner.

Work was finalised on amendments to the *Parliamentary Service Act 1999* to extend the delegation arrangements for the Merit Protection Commissioner and to ensure consistency with amendments to the Merit Protection Commissioner's functions and the review of actions provisions in *Public Service Act 1999*. Further work was undertaken on changes to Parliamentary Service determinations to ensure consistency with the functions of the Australian Public Service Merit Protection Commissioner where this was appropriate.

Discussions were also held between the Parliamentary Service Liaison Officer and staff of the Merit Protection Commissioner and the Department of the Prime Minister and Cabinet on the effects of the Public Interest Disclosure Bill on the operation of the whistleblower framework. The *Public Interest Disclosure Act 2013* was passed on 26 June 2013.



